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TRIAL

OF

DAVID DOWNIE,

FOR

HIGH TREASON,

BEFORE THE COURT, UNDER THE
SPECIAL COMMISSION OF OYER AND TERMINER,
HELD AT EDINBURGH.

TAKEN IN SHORT HAND BY MR BLANCHARD

REVISED BY THE COUNSEL ON BOTH SIDES,

AND

PUBLISHED WITH PERMISSION OF THE COURT.

EDINBURGH:

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PARLIAMENT CLOSE.

1795.

PROCEEDINGS

OF THE

COURT OF OYER AND TERMINER,

HELD AT EDINBURGH, ON FRIDAY, SEPTEMBER THE 5*th* 1794,

PRESENT,

LORD PRESIDENT.
LORD CHIEF BARON of the Exchequer.
LORD ESKGROVE.
Mr BARON NORTON.
LORD SWINTON.
LORD DUNSINNAN.

Counſel for the Crown.	Counſel for the Priſoner.
The Lord Advocate.	*Mr Cullen.*
Mr Solicitor General.	*Mr John Clerk.*
Mr Anſtruther.	*Mr Fletcher* to aſſiſt.
Mr Dundas	
Agent.	Agent.
Mr Warrender.	*Mr John Dillon.*

CLERK OF ARRAIGNS.—You, the priſoner at the bar, theſe good men that you ſhall hear called, and perſonally appear, are to paſs between our Sovereign Lord the King and you, upon

the trial of your life and death; if, therefore, you will challenge them, your time is to ſpeak unto them as they come to the book to be ſworn.

The Jury were then called as follows:

George Gardner.	Priſoner.	I challenge him.
John Bell.	Priſoner.	I challenge him.
David Clark.	Priſoner.	I challenge him.
William Hunter.	Priſoner.	I challenge him.
Thomas Muir.	Priſoner.	I challenge him.
Alexander Houſton.	Priſoner.	I challenge him.
Benjamin Yull.	Priſoner.	I challenge him.
Daniel Smith.	Priſoner.	I challenge him.
James Carfrae.	Priſoner.	I challenge him.
Sir William Forbes.	Priſoner.	I challenge him.

1. Robert Young, (of Queen Street, in the City of Edinburgh,) was ſworn.

Alexander Wallace.	Priſoner.	I challenge him.
John Mitchell.	Priſoner.	I challenge him.
John Scougall.	Priſoner.	I challenge him.
John Horner.	Priſoner.	I challenge him.
Thomas Hutchiſon.	Priſoner.	I challenge him.
Archibald Campbell.	Priſoner.	I challenge him.
George Kinnear.	Priſoner.	I challenge him.

2 William Fraſer, (of Kirkbraehead in the pariſh of St Cuthberts, of the county of Edinburgh) was ſworn.

John Andrew.	Priſoner.	I challenge him.
William Lamb.	Priſoner.	I challenge him.

3. William Fettes, (of Princes Street, in the City of Edinburgh) was ſworn.

William Scot.	Priſoner.	I challenge him.
James Rannie.	Priſoner.	I challenge him.
James Jameſon.	Priſoner.	I challenge him.

4. James Lindſay, (of Quality Street, Leith, wine Merchant) was ſworn.

Alexander Sheriff.	Priſoner.	I challenge him.

Alexander

Alexander Kinnear. Priſoner. I challenge him.

5. James Hamilton, (of Princes Street, in the City of Edinburgh, upholſterer) was ſworn.

6. Alexander Ponton, (of Canal Street, in the City of Edinburgh, wright) was ſworn.

7. David Deuchar, (of High Street, in the City of Edinburgh, ſeal-engraver) was ſworn.

8. Charles Robinſon, (of Princes Street, in the City of Edinburgh, painter) was ſworn.

9. George Rae, (of Leith-wynd, in the Pariſh of Canongate, candle-maker) was ſworn.

10. John Bonnar, (of St David Street, in the City of Edinburgh, painter) was ſworn.

11. David Milne, (of Queen Street, in the City of Edinburgh, merchant) was ſworn.

Francis Buchan Sydeſerff. Priſoner. I challenge him.

James Price. Priſoner. I challenge him.

12. John Black, (of Turk's Cloſe, in the City of Edinburgh, woollen-draper) was ſworn.

LIST OF THE JURY.

Robert Young.
William Fraſer.
William Fettes.
James Lindſay.
James Hamilton.
Alexander Ponton.
David Deuchar.
Charles Robertſon.
George Rae.
John Bonnar.
David Milne.
John Black.

CLERK OF ARRAIGNS.—Count theſe. He then called over the names of the Jurors ſworn: they were accordingly counted.

CLERK OF ARRAIGNS.—Cryer, make proclamation.

CRYER.—Oyez. If any one can inform my Lords, the King's Attorney General, or this inqueſt now to be taken, of the High Treaſon, whereof the priſoner at the bar, ——— ——————— ſtands indicted, let them come forth, an they ſhall be heard; for now the priſoner ſtands at the bar upon his deliverance, and all others that are bound by recognizance, to give evidence againſt the priſoner at the bar, let them come forth and give their evidence, or elſe they forfeit their recognizance; and all Jurymen that have been called, and have appeared, and are not ſworn, may depart the Court.

CLERK OF ARRAIGNS.—David Downie, hold up your hand, (which he did.)

CLERK OF ARRAIGNS.—(To the Jury.) Gentlemen, you that are ſworn, look upon the priſoner, and hearken to his charge; he ſtands indicted by the name of David Downie, late of Edinburgh, in the County of Edinburgh, not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved as a falſe traitor, againſt our Lord the King, and wholly withdrawing the cordial love, and true and due obedience, fidelity, and allegiance, which every true and faithful ſubject ſhould, and of right ought to bear, towards our Lord the King, and wickedly, maliciouſly, and traiterouſly, contriving to break and diſturb the peace, and to change, ſubvert, and overthrow the Government, happily eſtabliſhed in this Kingdom, and to excite, move, and raiſe inſurrection, and rebellion, and to depoſe our Lord the King from the Government of Great Britain, and to put him to death, on the firſt day of March laſt, and on divers other days.

The

The *firſt* overt act is, that he, on the firſt of March, did maliciouſly, wickedly, and traiterouſly meet, conſpire, conſult, and agree to cauſe and procure a meeting of divers ſubjects, to be aſſembled and held within the Kingdom of Great Britain, under the name of a Convention, for the purpoſe of aſſuming to themſelves, at ſuch meeting, the powers of Government and Legiſlation, over this Kingdom, independent, and in defiance of the authority, and againſt the whole of the Parliament of this Kingdom, and of ſubverting and altering the rule and Government, and depoſing our Lord the King from the Government and Royal ſtate.

The *ſecond* overt act is, that he met, and conſulted to inſtigate, incite, encourage, and perſuade the ſubjects of our Lord the King, to cauſe and procure divers Meetings and Aſſemblies, for the purpoſe of chuſing Delegates from among themſelves, to meet in a Meeting under the name of a Convention, to be held for the purpoſe of aſſuming to themſelves the power of Government, and Legiſlation, and of depoſing the King.

The *third* overt act is, that he met and aſſembled to chuſe a Convention to he held, the object of which was to redreſs national grievances, by uſurping to themſelves the power of Government and Legiſlation of this Kingdom, in defiance of the authority of Parliament.

The *fourth* overt act is, conſulting to bring about, in ſuch Convention, to be held without the conſent of Parliament, an alteration and change in the mode of Repreſentation, and inſtigating and inciting perſons to ſend Delegates to ſuch Convention, for the ſame purpoſe.

The *fifth* overt act, that he conſpired, with other falſe Traitors, by force to oblige the King to alter the meaſures of Government, and to comply with certain unlawful demands, propoſitions, and meaſures, to be thereafter made by him, relating to the King's Adminiſtration of the Government of this Kingdom.

The *ſixth* overt act is, that he conſpired to raiſe, and make Inſurrection and Rebellion, againſt our Lord the King.

The

The *ſeventh* overt act is, that he conſpired to oblige the King by force to comply with certain demands to be made by him, and conſent to the introduction of regulations and meaſures reſpecting the Government of this Kingdom.

The *eighth* overt act is, that he conſpired, conſulted, and agreed with other falſe Traitors, to ſeize and take the Caſtle of Edinburgh into his poſſeſſion, by force of arms, with guns, pikes, ſpears, battle axes, and other offenſive weapons, and to provide leaders to be appointed and inſtructed by him, and to lay in wait, and ſurprize the forces of our Lord the King, ſtationed in the ſaid Caſtle of Edinburgh, and to attack and fight them, and to take into his poſſeſſion by force, the public Banks, and Exciſe Office, and to ſeize and impriſon the Juſtice Clerk, the Lords of Council and Seſſion, and Juſticiary, and the Lord Provoſt of Edinburgh.

The *ninth* overt act is, that he did inſtigate and incite divers ſubjects of our Lord the King, to conſent to, and approve the laſt mentioned traiterous propoſals, and to aid and aſſiſt him in effecting, and carrying the ſame into execution.

The *tenth* overt act is, that he conſpired and conſulted with other falſe Traitors, to procure arms for the purpoſe of arming himſelf and others, to enable him to reſiſt the King, in the legal exerciſe of his Royal power and authority.

The *eleventh* overt act is, that he conſpired to raiſe and levy money, the better to carry into effect his traiterous purpoſes aforeſaid.

The *twelfth* overt act is, that he compoſed, printed, publiſhed, and diſperſed certain malicious, wicked, and treaſonable papers, and addreſſes, among the ſubjects of our Lord the King, inciting them to contribute and ſubſcribe money for the uſe of him, and other falſe Traitors, and to appoint collectors, to collect and receive ſuch money, and to remit, and to pay the ſame to him, with intent that ſuch money ſhould be accounted for, and diſburſed in ſuch way as ſhould be moſt calculated to make, and raiſe Inſurrection and rebellion againſt the King.

The *thirteenth* overt act is, that he hired and employed John Fairley, to carry and diſperſe ſuch papers as laſt aforeſaid, and delivered him a great quantity for that purpoſe, with intent to incite the ſubjects of our ſaid Lord the King, forcibly to reſiſt the King, in the exerciſe of his authority, and to aſſiſt in proſecuting an attempt to be made to ſubvert the Government.

The *fourteenth* overt act is, that he inſtructed the ſaid John Fairley, to inſtigate, and incite the ſubjects of our ſaid Lord the King, to give aſſurance and ſupport, and to remit ſuch money as ſhould be collected to him.

The *fifteenth* overt act is, that he employed the ſaid John Fairley, to inſtigate and incite the ſubjects of our ſaid Lord the King, to procure arms, and to arm themſelves, to reſiſt the King, and to aid and aſſiſt him in ſubverting the Government.

The *ſixteenth* overt act is, that he employed William Brown, to make and procure arms, for arming himſelf and other falſe Traitors, and paid them money for the ſame.

The *ſeventeenth* overt act is, that he employed Robert Orrock, to make arms for the ſame purpoſe.

The *eighteenth* overt act is, that he contrived, and got into his poſſeſſion arms, and kept them concealed in his dwelling houſe, in readineſs to be made uſe of, for the traiterous purpoſes aforeſaid, againſt the duty of his allegiance, againſt the form of the ſtatute in ſuch caſe made and provided, againſt the peace of our ſaid Lord the King, his Crown and Dignity.

Upon this indictment he hath been arraigned, and thereunto hath pleaded not guilty, and for his trial hath put himſelf upon God and the country, which country you are; your charge is, to enquire whether he be guilty of this High Treaſon, whereof he ſtands indicted, or not guilty; if you find him guilty, you are to enquire what goods and chattels, lands and tenements, he had at the time of the High Treaſon committed, or at any time ſince; if you find him not guilty, you are to enquire if he fled for it; if you find that he fled for it, you are to enquire of his goods and chattels, as if you had found

him

him guilty; if you find him not guilty, and that he did not fly for it, you are to ſay ſo, and no more, and hearken to the evidence.

MR DUNDAS.

Gentlemen of the Jury,

THIS is an indictment of High Treaſon, againſt David Downie, the priſoner at the bar: You have heard the indictment read, and it is my duty to ſtate the ſubſtance of it. Briefly, then, it is this,—The priſoner is charged with conſpiring to aſſemble a Convention, which was to uſurp the Government, and to new-model, at their will, the Conſtitution of the country. He is likewiſe charged with procuring offenſive weapons, to arm the ſubjects of the country, in order to alter the form of the Government, and to overawe, and reſtrain the conduct of the King, and compel him to comply with ſuch meaſures as, to the priſoner and his aſſociates, might ſeem proper, and expedient; and, finally, he is charged with having conveyed treaſonable papers, with a view of influencing the army, corrupting the ſoldiers, and biaſſing them from their duty, and of exciting them to rebellion. The ſum of all is, he has taken meaſures which, in the language of the law, extend to compaſs and imagine the death of the King,—to which he has pleaded not guilty.

THE LORD ADVOCATE.

My Lords,—Gentlemen of the Jury,

THIS is an indictment againſt the priſoner at the bar, for the crime of High Treaſon; and it is my duty to ſtate to you ſhortly the law, as it appears to me to ſtand, upon that ſubject, and the general nature and import of thoſe facts, which, on the part of the Crown, and on that of the public, it is my duty to lay before you, and to ſupport by evidence; of the truth or ſufficiency of which evidence, you, as the repreſentatives

preſentatives of the country, judging impartially, between the proſecutor on the one hand, and your fellow ſubjects on the other, are alone entitled, and have the power to determine.

Gentlemen, it muſt be perfectly well known to you, that, upon the happy event of the Union of the two Kingdoms, the ſyſtems of law, which had prevailed in each country, from the earlieſt hiſtory of both of them, were, by that ſolemn treaty, ſettled and ſecured to each Nation for ever. Soon after, however, and upon the beſt grounds of public expediency, an alteration took place, in reſpect to the crime of High Treaſon, which, ſince that period, has, by the authority of Parliament, been made the ſame for both Kingdoms. It was juſt that it ſhould be ſo; for, being united under the ſame Sovereign, and under the ſame happy form of Government, it was expedient, and neceſſary, that as our allegiance was the ſame, the laws that puniſhed the breach of it ſhould be equally ſo.

Gentlemen, I ſhall not ſtop to enquire, Whether we, in Scotland, gained, or may be ſuppoſed to have gained, or to have loſt, by the introduction of the Engliſh law of Treaſon: It is not material to the queſtion you are now to try; but this I can ſtate, without the hazard of contradiction upon the part of the priſoner, that the Scotch laws of Treaſon, previous to the Union, were much more ſtrict, and much more ſevere, than thoſe which were eſtabliſhed in England, under the protection of which we now live; and that ſome perſons, who are now ſuffering, under the common law of Scotland, arbitrary puniſhments, for offences committed againſt it, would, if the Scotch laws of Treaſon had exiſted at the preſent moment, have been tried for their lives, under that law, and would have ſuffered the capital puniſhment which that law inflicted I have no doubt you muſt alſo know, for it is a circumſtance that has always been ſtated to the honour of the law of England, that from the days of King Edward the III. to the preſent time, the law of Treaſon has been governed by a ſtatute, paſſed in the Reign of that excellent Prince; and that it

remains, the foundation of all the trials which have proceeded upon that ſubject.

It includes three diſtinct caſes; and the ſtatute is conceived in that ſhort, ſimple, and preciſe ſtyle, for which the Parliaments of our forefathers, at an early period, both in England and in Scotland, were ſo diſtinguiſhed and remarkable. They left that brief, ſhort, and conciſe ſtatute, to be applied by the judges of the land, in after times, to every caſe which appeared to them to fall within it; they buſied not themſelves with hunting out every minute caſe, which fancy might ſuggeſt, but they laid down, in plain and clear language, that conduct, and thoſe leading facts, by which allegiance, in their apprehenſion, was broken, and left to the judicial authority of the land, to apply to ſubſequent caſes, the diſtinct and plain rules by which the law of treaſon was ſettled and defined; and that ſtatute, which has ſtood the teſt of centuries, and which has been diſcuſſed in every caſe that has ſince occurred, has now, and for a long time paſt in England, been fixed, explained, and ſettled, beyond the poſſibility of controverſy, and beyond the reach of diſpute; it has juſtified the wiſdom of the Parliament which enacted it, by the univerſal applauſe which this country has beſtowed on it; and has received from all who have conſidered, or wrote upon the ſubject, the ſtrongeſt, and moſt juſt encomiums, as preſerving, on the one hand, the Conſtitution and Government, and the ſafety of every member of that Government, by puniſhment ſevere, if thoſe under its protection are falſe enough to conſpire for its downfall; and ſecuring, at the ſame time, the Liberty of the ſubject, and the ſafety of the higheſt as well as the meaneſt individual that lives under its protection, from the power of the Crown, if ever attempted to be oppreſſively exerted, or ſtretched beyond the due limits of that authority, with which the law and Conſtitution has veſted it, for the ſecurity of the whole, and for the preſervation of peace and of order.

Gentlemen, I ſtated to you, there were three points which formed the leading and prominent features of that act of Parliament.

The

The firſt, in the order of the ſtatute, and conſidered by the law as the moſt enormous in guilt, is—compaſſing or imagining the death of the King: the ſecond, levying war againſt the King: and the third, adhering to the enemies of the King.

In this caſe, with the laſt we have nothing to do. The charge, which has been opened in general to you, by my brother, falls, as you muſt have obſerved, under the firſt, and moſt important of the whole, compaſſing and imagining the death of the Sovereign; and, in the courſe of the evidence I ſhall afterwards open, you will find, that, to a certain extent, the ſecond branch of the ſtatute comes likewiſe under your conſideration, though it forms not the ground work of the charge againſt the priſoner at your bar; for, according to the univerſal and concurrent authority of the greateſt and ableſt judges and lawyers, which any country ever produced, men, friends to the Liberties, the Religion, and the Conſtitution of their country, a conſpiracy, or conſultation to levy war, or inſurrection, againſt the Government and the Sovereign, even though that war ſhould not be actually levied, but by vigilance checked in the bud, has been, with the fulleſt conſideration, held to be an overt act of compaſſing and imagining the death of the Sovereign, and to fall under that leading and principal branch of the ſtatute.

Gentlemen, we have, ſince that law has been extended to us, had two Rebellions in our country, but upon both thoſe occaſions, the perſons guilty were, from peculiar circumſtances, and under the authority of a ſpecial ſtatute, tried in our Siſter Kingdom. We have the misfortune, at the period we now live, to be almoſt the firſt, in the different ſituations of judges, jurymen, or proſecutors, called to the melancholy, but neceſſary exerciſe of the juriſdiction, according to the laws that prevail in our Siſter Kingdom; and though the periods of Rebellions, I truſt, are paſt; although we all, for this century paſt, have had occaſion to bleſs the Conſtitution which our parents have eſtabliſhed for us, which from them we have received, and which, I truſt, we ſhall do our utmoſt to ſend

down entire to our children, there exiſts, at the preſent moment, to the aſtoniſhment and grief of every virtuous, loyal, and well diſpoſed ſubject, (from what ſource it originates I need not ſtate) a conſpiracy and combination, founded upon principles hoſtile, not only to our own, but to every other Government, and ſubverſive of all order, aided by men, who, deteſting every form of Government, have endeavoured to ſeduce the ignorant, the low, and the illiterate, (who are incapable of conſidering thoſe ſubjects), from their duty and allegiance; to excite the multitude to rebellion, and to riſe in arms againſt that admirable Conſtitution, in the poſſeſſion of which every Briton exulted; and under the ſpecious, but falſe pretext of Reform, to ſubſtitute inſtead of what we enjoy, ſomething which theſe unhappy people themſelves do not underſtand; an attempt which, if they had ſucceeded, would have produced the ſame dreadful conſequences which have taken place in a neighbouring country; would have equally involved in it the life of our Sovereign, and the exiſtence of the Legiſlature; would have ſubverted all laws, and annihilated all property, and, after deſtroying thoſe perſons employed in the ſervice of the State, or members of its Legiſlature, would have, almoſt in the next immediate moment, deſcended on the heads of thoſe moſt active and conſpicuous in ſuch a dreadful conſpiracy.

Gentlemen, the words of the act of Parliament ſtate the law with ſufficient accuracy for you to underſtand its meaning, and after reading that ſtatute, you will be able, without any comment of mine, which as a Scotch lawyer I would hardly pretend to give you, upon an Engliſh ſtatute, to ſee what the law of Treaſon is, or by what circumſtances of conduct it is violated. The law of England indeed, as the law of every free country ought to be on this ſubject, is ſo plain, that every man who reads may underſtand, and know preciſely the law which he dares to violate.—For your farther ſatisfaction, however, I ſhall feel it my duty, not in my own words, but in thoſe of the moſt diſtinguiſhed lawyers of England, to lay before you thoſe obſervations on the ſtatute, which appeared

peared to them material, and to ſtate the caſes, in their apprehenſion, that fall under the one or the other of the two branches of the act of Parliament. I ſhall beginwith Mr Juſtice Foſter, of whoſe name you have moſt of you no doubt heard, and read from him and Hawkins, and Mr Juſtice Blackſtone, the moſt modern of them all, a few pages upon the ſubject.

In that diſcourſe which Mr Juſtice Foſter publiſhed, ſoon after the Rebellion 1746, upon the law of High Treaſon, which, as from the eminence of his profeſſional, as well as general character, and the particular circumſtances of the times, he was called upon to conſider, with the moſt minute attention, ſo he poſſeſſed the ability of ſtating to his country, and poſterity, what the law was on the ſubject, he, in his commentary upon the firſt branch of the ſtatute, compaſſing the King's death, expreſſes himſelf in the following words:

" I have ſaid, that, in the caſe of the King, the ſtatute of " Treaſons hath, with great propriety, retained the rule, *vo-* " *luntas pro facto*, (the will for the deed.) The principle " upon which this is founded, is too obvious to need much " enlargement —The King is conſidered as the head of the " body politick, and the members of that body are conſider- " ed as united, and kept together, by a political union with " him, and with each other.—His life cannot, in the ordinary " courſe of things, be taken away by Treaſonable practices, " without involving a whole nation in blood and confuſion."

I recollect, if I may be permitted to ſtop here, a quotation from a living author, I mean the preſent Lord Auckland, who, in his principles of Penal Law, has unqueſtionably proved himſelf, by his writings, as great a friend to the liberty of the ſubject, as a decided enemy to any ſevere ſyſtem of criminal juriſprudence; and who obſerves, that the circumſtance of a Sovereign being carried from his throne, and under the appearance of a mock tryal, led to execution, by his ſubjects, was (ſome few years ago) without a parallel. We live at an hour of this century, when his Lordſhip's remark is no longer accurate, and when that circumſtance is no longer peculiar to the Hiſ-

tory

tory of Britain; when dreadful experience juſtifies the truth of Mr Juſtice Foſter's obſervation,—" That his life cannot be " taken, in the ordinary courſe of things, without involving " a whole nation in blood and confuſion; conſequently, every " ſtroke levelled at his perſon, is, in the ordinary courſe " of things, levelled at the public tranquility; the law " therefore tendereth the ſafety of the King, with an an- " xious, and, if I may uſe the expreſſion, with a concern " bordering upon jealouſy: It conſidereth the wicked ima- " ginations of the heart, in the ſame degree of guilt as " if carried into actual execution, from the moment mea- " ſures appear to have been taken to render them effectual; " and therefore, if conſpirators meet, and conſult how to kill " the King, though they do not then fall upon any ſcheme " for that purpoſe, this is an overt act of compaſſing his death, " and ſo are all meams made uſe of, be it advice, perſuaſion, " or command, to incite or encourage others to commit the " fact, or to join in the attempts; and every perſon who but " aſſenteth to any overtures for that purpoſe, will be involved " in the ſame guilt."

" And if a perſon be once preſent at a conſultation for ſuch " purpoſe, and conceal it, having had a previous notice of " the deſign of the meeting, this is an evidenceproper to be " left to the Jury, of ſuch aſſent; though the party ſay, or do " nothing, at ſuch conſultation. The law is the ſame, if he is " preſent at more than one ſuch conſultation, and doth not " diſſent or make a diſcovery. But, in the caſe of once falling " into the company of conſpirators, if the party met them " accidentally, or upon ſome indifferent occaſion, bare con- " cealment, without expreſs aſſent, will be but miſpriſion of " Treaſon. The law was formerly more ſtrict in this re- " ſpect; *ſi ad tempus diſſimulaverit vel ſubticuerit, quaſi conſen- " tiens et aſſentiens, erit ſeductor Domini Regis manifeſtus.*

He then goes on:—" The care the law hath taken for " the perſonal ſafety of the King, is not confined to actions, " or attempts of the more flagitious kind, to aſſaſſination or

" poiſon,

" poiſon, or other attempts, directly and immediately aim-
" ing at his life; it is extended to every thing wilfully and
" deliberately done, or attempted, whereby his life may be
" endangered; and, therefore, the entering into meaſures
" for depoſing, or impriſoning him, or to get his perſon into
" the power of the conſpirators,—theſe offences are overt
" acts of Treaſon, within this branch of the ſtatute; for ex-
" perience hath ſhewn, that between the priſons and the
" graves of Princes, the diſtance is very ſmall."

It goes on.—" Offences which are not ſo perſonal as thoſe
" already mentioned, have been, with great propriety, brought
" within the ſame rule, as having a tendency, though not ſo
" immediate, to the ſame fatal end; and, therefore, the en-
" tering into meaſures, in concert with foreigners and o-
" thers, in order to an invaſion of the Kingdom, or going in-
" to a foreign country, or even propoſing to go thither, to
" that end, and taking any ſteps in order thereto,—theſe
" offences are overt acts of compaſſing the King's death."

Gentlemen, from this you will obſerve, that any thing which has a tendency to touch the life or the ſafety of the Sovereign, which in the ſmalleſt degree may in its conſequences bring it into hazard, is, upon the principle of the quotation I firſt ſet out with, moſt juſtly held, and always has been, by every court of law, and every Jury that tried the queſtion, as the offence of compaſſing and imagining the death of the King, provided an overt act, or facts and circumſtances, ſufficient to ſatisfy your own conſciences, that ſuch was the parties intention, are proved, and which oblige you, by the oath you have taken, to return that verdict you think the evidence compels you to do.

Gentlemen, having ſtated this, I ſhall beg leave to trouble you with only another quotation from the ſame author, which is proper to be attended to, as peculiarly applicable to the facts I have afterwards to ſtate, and which, I believe, will be made out to you by evidence. Relative to the ſecond branch of the ſtatute, and the manner in which that is referred to, as evidence of the priſoner being guilty, under the firſt branch of the act

of

of Parliament, the actual levying of war againſt the King, no body can queſtion, is High Treaſon. A conſultation to levy war, if directly againſt the perſon of the King, is evidence of compaſſing or imagining his death, even though no war actually follows; and Mr Juſtice Forſter ſays,—" Every " inſurrection which, in the judgment of law, is intended a- " gainſt the perſon of the King, be it to dethrone or impriſon " him, or to oblige him to alter his meaſures of Government, " or to remove evil counſellors from about him, theſe riſings " all amount to levying war, within the ſtatute, whether at- " tended with the pomp and circumſtances of open war, or " not; and every conſpiracy to levy war for theſe purpoſes, " though not Treaſon within the clauſe of levying war, is an " overt act, within the other clauſe, compaſſing the King's " death; for theſe purpoſes cannot be effected by numbers, " and open force, without manifeſt danger to his perſon."

Gentlemen, having thus laid before you, what occurs to my mind as ſtating the law clearly; though I intended to refer to other authorities, I do not, upon recollection, think it neceſſary; and therefore ſhall proceed to ſtate theſe facts under which, if in the ſequel they ſhall be ſatisfactorily proved, it will be my duty to claim your judgment againſt that man. You are all, I make no doubt, acquainted, that about two years ago, a number of perſons in this country formed themſelves into aſſociations, or clubs, for the purpoſe, as it was ſaid, of obtaining what they called a Parliamentary Reform, a Reform which you will hear more of in the ſequel, and which you will ſee proved by authentic documents, and papers before you, whatever the original movers of the plan intended, or whatever they profeſſed to intend, to have been nothing elſe but a ſcheme to ſubvert the preſent ſyſtem of Government, in this country, and to obtain what they call Univerſal Suffrage, and Annual Parliaments, without which, ſome of thoſe poor deluded people have been taught to think, they have not been free. They applied, as they had a right to apply, by petition to Parliament, and the Houſe of Commons, in its wiſdom, and to its eternal honour, acting as it thought beſt for the ſafe-

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ſety of the country, and foreſeeing what was couched under the application, rejected theſe petitions, and refuſed to liſten to them. Being diſappointed in this meaſure, it appears that ſome of thoſe clubs and aſſociations inſtantly ſet about looking out for other means, and you will have, as early as the month of May 1792, a letter from a club in London, called the London Correſponding Society, to a perſon of the name of Skirving in this country, who was ſecretary to another club in Scotland, or rather, as he has ſtiled himſelf, ſecretary to a Convention of all the clubs which had met upon that ſubject, and which had been induſtriouſly created in this country, in every corner of it

In that letter, which will be proved to you, Mr Hardy, the ſecretary, ſtates to Mr Skirving, as the Houſe of Commons have rejected their petition, it is now time, or proper to think of more effectual meaſures; and he deſires to know from Mr Skirving, and his friends in this country, what theſe more effectual meaſures are.

Mr Skirving, in another letter which will be proved to you, ſoon after anſwers Mr Hardy's letter: I ſhall not at preſent read that letter; it will be afterwards read to you; but, I am convinced, you will think when that paper is laid before you, that although the writer of it did not, at that time, imagine it ever was to be produced here, from the beginning to the end, even at that early period, it points out a ſcheme, on the part of theſe men, to effect by force what they had not obtained by application, and a determination to eſtabliſh a kind of Government of their own, in this country, which in due time might have the effect of gaining, by force and violence, what they had been refuſed in a legal Conſtitutional way by Parliament.

Gentlemen, we will alſo lay before you in evidence, a letter from Mr Hardy to Mr Skirving, of 5th October 1793, a few weeks preceding that remarkable event which took place in our native City, the aſſemblage of a Britiſh Convention, holding itſelf up as the repreſentative body, of not only Scotland, but of many thouſands in England, and aſſuming to it-

ſelf the power, and ſtating that it would watch the proceedings of that Legiſlature, which it was its object and purpoſe to deſtroy; and which went the length, at laſt, of voting, at noon-day, a determination, not only to watch the proceedings of the Parliament; but if the Parliament dared to do any one of a variety of acts, which they had the audacity to particulariſe, they would forcibly reſiſt its authority, till compelled to deſiſt by ſuperior force. I ſhall prove that this Convention, to which the London Correſponding Society, and other ſimilar aſſociations, ſent delegates, went ſo far as to appoint a ſecret committee, for the purpoſe, in any of the ſpecified caſes, of calling together a Convention of Emergency, at a place they kept ſecret, where the Ringleaders of that Conſpiracy evidently, at that moment, thought they ſhould be able to aſſemble, as a rallying point, in ſome corner of the country, ſuch a force as would enable them to erect the Standard of Rebellion, againſt the Conſtitutional and Legal Authorities of the Kingdom.

Gentlemen,—you know, and we all of us know, who are obliged by our duty to attend to the proceedings of theſe men, and who will continue, by every means in our power, to trace them into their moſt ſecret receſſes, that to the honour of him who is your chief Magiſtrate, he went into the midſt of that aſſembly, and, calumniated as he may have been for that act of Magiſterial authority, by the Britiſh Convention, and its adherents,—I hope this Kingdom, from one end to the other, feels towards him that gratitude, which is his due, for acting as he did, in diſperſing that Convention, and prohibiting it again preſuming to aſſemble within this city.

Gentlemen, you all recollect, proſecutions were brought againſt thoſe perſons, before the Jurys of Scotland, for the offence they had committed againſt the law of Scotland, and you all know, the ringleaders of that Convention ſuffered that puniſhment, which the law of Scotland awarded againſt perſons ſo offending. And one would have imagined, that as the end of all puniſhments is not the deſtruction of the guilty, but that, by ſalutary example, others may be warned not to

tread

tread in the ſame courſe, and to abandon what their country ſanctioned as illegal, none would have been found again attempting to have committed an offence, for which ſome of their countrymen had ſo recently ſuffered; but I ſhall prove to you, Gentlemen, that this priſoner at your bar was a member of that Convention.

Priſoner.—I was called as a witneſs upon Skirving's trial, to give teſtimony to the Crown.

Lord Advocate.—My Lord, I muſt prove the exiſtence of a conſpiracy. I am entitled to prove that this man, after the trial, (I am not trying him for any thing committed before,) that he, being a member of the Britiſh Convention, did perſevere in that courſe, and continued to act preciſely as he had done before.

Priſoner.—My Lord Juſtice Clerk, is not this prejudicing the Jury againſt me? Having given evidence upon Skirving's trial, nothing of that Convention can affect me.

Lord President.—The Lord Advocate ſays, he does not mean to charge you with any thing prior to that trial, but to charge you with doing things after that time; and he is entitled to open his charge; that will not, and ought not to prejudice the minds of the Jury. The Jury know, though they muſt have a charge opened, they are not to proceed upon any charge or allegation whatever, on either ſide, till proof is brought forward; and they cannot believe any thing heard, without or within doors, except what is eſtabliſhed by proof; that every Gentlemen there knows.

Lord Advocate.—I cannot, as I am entitled to do, accuſe this man of continuing, and purſuing criminal meaſures, unleſs I ſtate the meaſure in which he has continued. It is impoſſible I can prove to the Jury, or accuſe him of continuing in a courſe of illegal meaſures, unleſs I ſtate alſo what the criminal meaſure is, that he has perſevered in; at the ſame time, if your Lordſhips be of opinion I am ſtating what I have no right, or am not bound in duty to ſtate, againſt the priſoner, I am far from wiſhing to ſtate what can criminate him, beyond what I feel my duty to do.

LORD PRESIDENT.—The counſel for the priſoner muſt be clear the Lord Advocate is going on only with what is proper.

Mr Cullen.—The Lord Advocate is only ſtating what happened afterwards.

Lord Advocate.—I am only ſtating what happened afterwards.

Mr Anſtruther.—If the Lord Advocate ſtates what is not evidence, the counſel will object to the admiſſibility of it; then will be the time for the objection.

Lord Advocate.—After the diſperſion of the Britiſh Convention, a number of perſons, who were delegates to that Convention, formed a new ſociety in this city, of which ſociety this perſon was one, did continue to aſſemble in theſe ſocieties, and perſevered in the ſame meaſures, which was the object of the Britiſh Convention to obtain, and the nature of which I mentioned. Being prohibited and prevented from aſſembling, in the ſame mode which they had formerly adopted, they eſtabliſhed, in the month of January laſt, what they called a General Committee, and which afterwards obtained the appellation among themſelves, of a Committee of Union, conſiſting of a number of Delegates choſen by each club, into which they had pleaſed to divide and ſubdivide themſelves, in this city and the neighbourhood. I will prove they were the ſame perſons, and the moſt active among the members of the Britiſh Convention, whom the juſtice of the country permitted to remain in it, after the tryal and puniſhment of the principal actors. I ſhall ſhow the meaſures they purſued in that Committee were preciſely the ſame, with this aggravation, that you find them gradually proceeding from leſs to more, until they attained that degree of criminality, which led to a diſcovery of their proceedings, and checked them in their progreſs. You will find it proved, that, after ſitting a certain period, and meeting regularly and progreſſively, from time to time, they at laſt ſubdivided themſelves into an inferior and ſubordinate Committee, to which they gave the appellation of a ſub-Committee, or a Committee of Ways and Means: That

this

this Committee, in its formation, and in its ſtructure, clearly will denote to you, that they were engaged in a deliberate, regular, and ſyſtematic plan, to ſubvert the Government of the country: That this Committee had abſolute, uncontroulable and compleat powers to collect money, and to diſpoſe of that money in which way they pleaſed, after being collected, not from this city alone, but from every part of Scotland, where they could effectually ſolicit the aid of their friends: That the Committee was to diſpoſe of the money, in the way moſt conducive to the *grand cauſe*, a mode of expreſſion they ſometimes uſed, when they obtained that money from thoſe perſons they thought their friends, though, at other times, it was falſely pretended to be applied to the relief of the wife of Skirving, who had been tranſported, becauſe they durſt not ſtate what the real cauſe was, for which the money was ſo received by this perſon Downie.

I muſt likewiſe ſtate to you, that this man was a member of that ſubordinate active Committee, called a Committee of Ways and Means, and was appointed its treaſurer. We alſo ſhall prove to you, that, immediately after the conviction of ſome of the members of the Britiſh Convention, particularly one of the delegates who had been ſent by the London Correſponding Society,—that Society, in the month of January laſt, aſſembled at the Globe Tavern, Fleet Street, to the number of 1000 perſons: That they took up the cauſe of the Britiſh Convention, and juſtified their proceedings, in all particulars: That they voted thanks to the perſons whom the juſtice of Scotland had condemned to Tranſportation, and they had the boldneſs to challenge as unlawful, and unparalelled in this country, the adminiſtration of Criminal Juſtice, and the conduct of the Supreme Criminal Court, in having preſumed but to do its duty, by applying the eſtabliſhed law of Scotland to thoſe perſons convicted before it, by an impartial and intelligent jury. They ordered 100,000 copies of an inflamatory addreſs to be diſperſed all over, and in every corner of this iſland, for what purpoſe it is for you to determine; with what intention it is your province to conſider:

That

That they even, with a trivial exception, went the length of voting, in that Society, the very reſolution for which the Britiſh Convention had been ſtopt in Edinburgh; for what Margarot was then lying convicted in goal; for what the jury of Scotland had found it their duty to convict and puniſh him.

Gentlemen, they alſo went the length of ſtating, by a paper which will alſo be laid before you, that now they were to expect no redreſs, unleſs from laws of their own making, not from the laws of their oppreſſors and plunderers; an expreſſion which I defy the moſt lenient interpretation to conſtrue in any other ſenſe, when connected with thoſe circumſtances I have already ſtated, than a deep and fixed determination in their minds, to reſiſt the laws and the Legiſlature of their country, and to eſtabliſh by force a Government by themſelves. If I went no further than this, I ſhould be entitled to ſay, that I had proved the indictment againſt thoſe concerned in it; for if they ſucceeded in eſtabliſhing any Conſtitution and authority, which enabled them to enact and propoſe their own laws, the meaſure could not exiſt, without ſubverting, in the firſt place, the Legiſlation of the country, and the King, as a component part; and as he is an eſſential part of it, it follows of courſe, that, in conſpiring and conſulting for ſuch a meaſure, they are clearly and indiſputably within the words of the act of Parliament, and guilty of compaſſing and imagining the death of the King; even though no meaſure is taken, or no declaration appeared to be made, directly affecting the perſon of the King, ſtill it neceſſarily involved his downfall, as well as that of the other branches of the Legiſlature; and if the meaſure propoſed by them, involved in its execution, the downfall of the King, and the deſtruction of his Royal State and Dignity, it comes both under the words and ſpirit of the branch of the ſtatute I have ſtated. You will have it proved, that as the time advanced, they grew more audacious and bold. On the 14th of April laſt, upwards of 2000 perſons, compoſing the London Correſponding Society, aſſembled at Chalk farm, in the neighbourhood of London, and voted reſolutions

ſolutions, more flagitious than was formerly done at the Globe Tavern; and, after juſtifying the conduct of Skirving, Margarot, and his aſſociates, proceeded to take ſteps for calling another Britiſh Convention, which clearly demonſtrates it was juſt the ſelf ſame kind of aſſembly, and the ſelf ſame kind of object with the Britiſh Convention, which was again to be carried into execution.

This I ſhall prove, by authentic documents, to be laid on your table, and evidence of witneſſes brought from London, that 200,000 copies of thoſe inflamatory reſolutions were voted by this numerous and dangerous meeting, and circular letters, it will be proved, ſigned by Hardy, the Secretary of that Society, were intended to be ſent to all parts of Great Britain, for the purpoſe of aſſembling that Convention. I will prove, that ſeveral of theſe letters were ſent to different places in Scotland, and that anſwers were ſent inſtantly, acceding to the propoſal of chuſing a delegate for this Convention, who was to be ready to ſet out, as ſoon as notice was given to him from London, of the time and place of meeting; both of which were kept ſecret with the ringleaders, till the moment arrived when it ſhould be judged proper to communicate it.

Gentlemen, I ſhall prove to you, that the priſoner at the bar was a member of the Committee of Union, and of Ways and Means, which was acting in this city at that time. That he was preſent at a meeting of that Committee, where one of thoſe letters from Hardy was laid before them. I ſhall prove to you what paſſed at that meeting; I ſhall prove to you, that an anſwer was agreed to be given. I ſhall prove to you that that anſwer was ſent by a perſon of the name of Stock, who is not to be found, but who is a member of that Committee; and that a correſpondence was to take place, and continue between Mr Hardy and the perſon that was moſt active in this Committee, of which the priſoner was one of the members; likewiſe, that about this time, in the month of April, the Committee of Ways and Means began to take more deciſive meaſures, in proſecution of that traiterous attempt,

which

which had all along clearly been their object; for, having eſtabliſhed themſelves in the manner I have juſt now ſtated, about this period, they went the length of endeavouring, in the firſt place, to debauch the ſoldiery in this country, to excite them to mutiny, diſobedience, and rebellion; of endeavouring, as it was neceſſary for them to do, to bring them over to their ſide, or at leaſt to excite them to Sedition, which in their apprehenſion would tend to that end; and I ſhall prove, while a Regiment of Fencibles were quartered at Dalkeith, and were marching to England, whether they had voluntarily agreed to go, were attempted to be ſeduced to refuſe to go, and rebel againſt their officers, by a paper addreſſed to the Fencibles, which was compoſed in that Committee of Ways and Means, and which was printed by a man, a ringleader in that Committee, and circulated by this priſoner at the bar, giving it himſelf to a perſon, who inſtantly went out and conveyed it to certain ſoldiers in that regiment, although, to the honour of that regiment, the attempt failed of its effect. I ſhall prove likewiſe, and it is material for you to attend to it, that this man received conſiderable ſums of money, as Treaſurer of that Committee of Ways and Means, and for the purpoſe which I formerly ſtated to you, and as he had received that money, he actually applied it to the real and true, not to the pretended purpoſes for which it was collected; and I will prove to you, what muſt have been the great cauſe for which this money was ſo ſolicited, paid, and ſo received by Mr Downie, and that applied to no other purpoſe, can leave no man's mind to doubt, it was as direct a Conſpiracy and Rebellion againſt the King, and the Government of this country, as any which occurred in 1715 or 1745: for I will prove, at one of theſe meetings of the Committee of Ways and Means, a perſon, being one of the 5 that compoſed it, Mr Downie being one of them, did propoſe, and read from a paper, a ſcheme, which was actually a plan to raiſe an inſurrection, in the dead of the night, in the middle of the city, which had for its object the arreſting the perſons of your firſt Magiſtrate, the Judges of the High Court of Juſticiary, and the principal officers of Juſtice; the

the ſeizure of the Caſtle of Edinburgh, the Banks, and Public Offices; a ſcheme, in ſhort, of a regular Conſpiracy againſt the Government of the country. Five were preſent;—the propoſer of the plan was one;—of the other four, two, ſtruck with horror at the propoſition, ſignified their diſapprobation; the remaining two, being the priſoner at the bar, and Mr Stock, who were preſent in that meeting, not accidentally, or upon an indifferent occaſion, but clearly, with a deliberate and treaſonable purpoſe, not only did not diſſent, as the other two had done, but proved, by their conduct, their complete approbation of it.

I ſhall prove to you, that the priſoner afterwards met, in that ſame Committee, with thoſe ſame perſons, and after the breaking up of the Committee, at one of theſe meetings, concurred in ſending a perſon to the Weſt of Scotland, to ſound the diſpoſitions of the different towns, to which he was ſent, as an ambaſſador, and to communicate to them the plans and ſcheme, formed by this Committee of Ways and Means; and that man was furniſhed with money for that purpoſe, by Mr Downie, the priſoner: That he returned a faithful account of his miſſion; and that, when he reported to the Committee the reſult of his inquiries, the priſoner Downie was preſent. I ſhall prove that report to be the hand writing of that perſon, upon reading which, you can form but one opinion, that no perſon who, acting in that committee, heard that paper read, can be doubted, the moment he heard it read, as agreeing to the ſcheme which had formerly been propoſed, as much as if he had propoſed it. I ſhall prove to you, that arms, of a very dangerous, and particular ſtructure, were ordered by the perſon that made the propoſition which I have juſt now ſtated: That he, and the priſoner at the bar, employed two ſmiths, whom they inſtructed to make them, in a private and concealed way: That one of them, bringing to the other perſon ſome of the pikes, ſpears, and battle axes, he had made, was, upon applying for payment, ſent to Mr Downie, and received the payment accordingly. I ſhall prove, that this City, divided before into Clubs and Societies, was again ſub-divided by this

committee, into ſmaller diviſions, of 10, 15, or 20 perſons each, under the command of the collectors, whom the committee named, by whoſe orders they acted, and who were in this way to draw out the people, after they had been properly armed, in a moment, ſo as to act with unanimity, force, and vigour, in purſuance of the ſcheme, as ſoon as it was ripe to be carried into execution. If I ſucceed in proving all this, you may judge otherwiſe; but it appears to me, even if you were to differ from me with reſpect to the firſt part of the caſe ſubmitted to your conſideration, regarding his acceſſion to the plan of calling a new Convention, that was to ſubvert the Government, and endanger the perſon of our Sovereign; —Yet, if I prove the preparing the arms, and all the circumſtances I have juſt now detailed, you cannot have a doubt, upon the authority of Mr Juſtice Forſter, in being of opinion, that this man has conſulted to levy War and Rebellion againſt the King and Government of the country, for the purpoſe of making his Majeſty alter his meaſures of Government, and Conſtitution of the Kingdom. I forgot to ſtate one material circumſtance, which I ſhall alſo bring home to Mr Downie, beyond the poſſibility of diſpute, that after the above mentioned plan was carried into execution, this Committee were to iſſue a proclamation, ordering all farmers, and the people poſſeſſed of victuals, hay, corn, and meal, to bring them in, for the purpoſe of being diſpoſed of to the public advantage. That the country gentlemen were not to leave their habitations, under pain of death, or go more than three miles diſtant from home; and they were to ſend a proclamation to the King, ſtating, that if he did not give up the war we are now engaged in with France, and diſmiſs his preſent Miniſters, he muſt either ſtand by the conſequences, or the peril of his refuſal would ly with himſelf. If I prove that caſe, I leave it to your conſideration what the reſult of your opinions muſt be, and what the verdict, which, under your oaths you muſt give, looking to the ſafety of your country on the one hand, to the juſt ſecurity of your fellow ſubjects on the other, and keeping in view, as I know you will do, the great and leading rules eſſential to the equal diſtribution of juſtice.

EVIDENCE FOR THE CROWN.

Mr Anſtruther.—We propoſe to produce all the papers at once, to call the witneſſes to prove them, and then read them together.

MR WILLIAM SCOTT, *(Procurator Fiſcal) Sworn.*

Mr Anſtruther.—*Q.* What are thoſe papers, Mr Scott?

A. They are part of the papers that were found in the poſſeſſion of Mr Skirving.

Q. Look at them, and tell me whether any of them are Skirving's hand-writing. (Shewing him one.) Is that Mr Skirving's hand-writing?

A. This letter has the ſubſcription of Mr Skirving.

Q. It is his hand-writing?

A. The ſubſcription is his hand-writing; I have ſeen him write.

Q. What are theſe other papers?

A. This is a ſcroll copy of the minutes of the Britiſh Convention, found on the 5th of December, in conſequence of a ſearch, by virtue of a warrant from the Sheriff. This was alſo found at the ſame time. They were all found in Skirving's poſſeſſion.

Q. All thoſe papers?

A. All thoſe papers.

The *Priſoner* ſaid, he hoped the court would conſider he had been promiſed, nothing that paſſed upon examination as a witneſs, ſhould be given in evidence againſt him.

Mr Cullen.—In conſequence of what you have juſt now heard from the priſoner at the bar, I conceive it to be my duty to call the attention of the Court to the circumſtances he has ſuggeſted. I am not perfectly ſure if I fully underſtand the indictment, for it is in a form I am little acquainted with. In ſo far as I am able to come at its meaning, amidſt the multiplicity of words in which it is involved, it ſeems to me to criminate the priſoner for having been a member of the

Britiſh Convention, which met at Edinburgh, in December laſt; and in being buſy to procure another Convention, which never did meet, but which, it is ſaid, *would have been* actuated by principles of a ſimilar kind.

If, however, there be any criminality intended to be fixed on Mr Downie, for having been a member, or concerned in the Britiſh Convention, I ſubmit to your Lordſhips, that it is not competent for the proſecutor to bring in evidence any facts, in order to attach guilt to the priſoner on that account. In the proſecution laſt winter againſt Margarot, Gerald, and others, for being concerned in that Convention, the public proſecutor adduced Mr Downie as a witneſs, and he accordingly gave a fair and full evidence. Now, I conceive, that by the law of this country, no perſon, adduced in ſuch circumſtances as a witneſs, can, *after* having fairly given his evidence, be held liable to be proſecuted himſelf, for having been concerned in that alleged criminal act. The very bringing him as a witneſs, entitles him to be protected againſt any proſecution on that account, nor can any circumſtance, tending to ſhew the criminality of that Convention, or of his having been concerned in it, be admitted as competent to be proved and brought into the ſcale againſt him, in a trial for another crime. This appears to me to be ſo ſtrongly founded in good ſenſe, and to be ſo clearly the principle of our law, that I humby ſubmit, that the evidence now offered cannot be received.

Mr Clerk.—When Downie was examined as a witneſs on that occaſion, he received the moſt ſolemn aſſurance from the Court, that nothing he ſhould then declare ſhould militate againſt him on any future occaſion, on any pretence whatever.

Mr Auſtruther—If the counſel for Downie had read the indictment with care, they would have ſeen, that he is not, in that indictment, charged with being a member of that Convention, or any Convention; I am neither accuſing him of that, nor trying him for it. I am accuſing him of endeavouring to procure, entering into meaſures to procure a Convention, to meet at a future period, and of exciting the ſubjects

jects of his Majeſty to ſend delegates to ſuch Convention, not a paſt Convention, but a future Convention; therefore there is nothing in this indictment which affects Downie at all, or attempts to affect him on the ſcore of the old Convention—I mean that which met in December; but I will be candid enough to ſay, that I do mean to give in evidence the acts of the Britiſh Convention, not to try Mr Downie for any thing he did in the Britiſh Convention; the charge againſt him is meeting in a Committee of Union, to carry on plans and projects for aſſembling another Britiſh Convention, at a time poſterior to the diſperſion of the Britiſh Convention, and taking meaſures with others, with a view to call another and ſimilar Convention, at a period then to come; but for that purpoſe, when I charge him with having endeavoured to call another Britiſh Convention, and endeavouring to further the views of the laſt, I muſt ſhew what the Britiſh Convention was, and what the views of that Convention were, not as a crime againſt Downie, but to explain the acts he ſubſequently did.

Mr Anſtruther.—*Q.* Thoſe are the minutes of Skirving found in the Convention?

A. Yes.

Q. What is that?

A. That is a paper found upon Mr Sinclair. This paper was along with it.

MR TAYLOR *Sworn.*

Q. You live in London?

A. I do.

Q. In Fleet Street?

A. In Fleet Street.

Q. Do you know Mr Hardy?

A. I do.

Q. Who is he?

A. Secretary to the London Correſponding Society.

Q. Were you a member of it?

A. I was.

Q. Explain what it was?

A. It is an aggregate ſociety, of 5 or 6000 perſons, divided into diviſions 30 in number; each diviſion had a delegate; there was a permanent committee conſtituted of theſe delegates; they met on the Thurſday evening, and on the ſubſequent night of meeting of each diviſion, the delegates reported the proceedings of that diviſion; there were other committees of the Society of Correſpondence, a Committee of Conſtitution; alſo, a Committee of Reviſion of Conſtitution; but that committee, as ſoon as they reviſed, and recorrected the report of the firſt committee, did not ſit any longer; there was lately a Committee of Emergency. The Committee of Reviſion of the Conſtitution brought forward a report of the Conſtitution founded on two heads,—Firſt, a declaration of rights, and ſecondly, an organization of that Society. In the declaration of rights, in one article or ſection—

Q. I don't want to prove that, but only they met for that purpoſe? Were you ever preſent at a meeting at the Globe Tavern?

A. I was.

Q. When was it?

A. The 20th January 1794.

Q. Who was preſent?

A. Martin.

Q. Did they come to any reſolutions?

A. They did to ſeveral.

BARON NORTON.—*Q.* That was a general meeting.

A. Yes.

Q. How many people might there be?

A. It was ſaid about 1000.

Q. Look at that paper?

A. That is a copy of the reſolutions that were then paſſed.

Q. From whom did you receive that?

A. From a perſon of the name of Moore.

Q. Was Mr Hardy preſent?

A. He was.

Q. State what he ſaid.

A. I called on Mr Hardy by the direction of Mr Thelwall, who commented upon that general meeting; I aſked him

him for one of theſe papers called addreſſes; he ſaid he had none himſelf, but if I would apply to the Secretary of the London Correſponding Society, he would give me one. I waited upon Mr Hardy, and he was converſing with two perſons, one I underſtood to be Moore. He ſaid to Moore "have you any of thoſe papers in your pocket of the general meeting?" Moore anſwered, "I have not one now, if he will go with me to Princes Street I will give him one there." Hardy deſired him to look into his pocket, which he did, and gave it me.

Q. You received it from Moore, in the preſence of Hardy, as reſolutions come to that night?

A. Exactly ſo.

Q. Look at that?

A. Theſe are the reſolutions of a general meeting of the London Correſponding Society, of the 14th April, at Chalk farm,

Q. Are they the ſame?

A. To the beſt of my recollection they are the ſame; there is a little variation in the wording of a reſolution.

Q. Have you ſtated where you received that paper?

A. No, ſir, I have not. I received this paper in the 2d diviſion, on the Monday following, that is, on the 22d April.

Q. Were you preſent at any meeting at Chalk Farm?

A. I was.

Q. On what day?

A. The 14th April.

Q. What was the meeting for?

A. It was a general meeting of the London Correſponding Society.

Q. By what ſort of ſummons were you called?

A. There was information prior to that, given in the ſeveral diviſions, that a meeting of that kind would take place that day.

Q. Were there any tickets delivered for the meeting?

A. There was.

Q. How many people might be there?

A. It was ſuppoſed between 2 and 3000.

Q. Where is Chalk Farm?

A. In

A. In the road from London to Hampſtead.

Q. Did they ever meet in Store Street?

A. It was propoſed to meet in a private room in Store treet.

Q. Why did they not?

A. It was ſaid they received notice from a Magiſtrate to the man of the houſe, not to permit the meeting; two perſons were fixed at the door of the houſe in Store Street, No. 8, with ſmall ſlips of paper, with words printed upon it, "Chalk Farm, Hampſtead road."

Q. Did that paper come to the committee?

A. Several.

Q. Where did you receive that paper?

A. In the 2d diviſion, on Monday the 21ſt April.

Q. From whom?

A. From Hardy; he brought them into the diviſion; I conceived him to bring them in his official capacity, as ſecretary of the ſociety; he laid them upon the table for the ſeveral members uſe.

Q. Was Hardy preſent at Chalk Farm?

A. He was preſent; I did not ſee him take any active part, but he was there.

Q. Who put thoſe reſolutions?

A. The Chairman.

Q. Who was the Chairman?

A. Lovett.

Q. Were theſe reſolutions come to?

A. They were.

Q. Is there any alteration in them?

A. To the beſt of my recollection, in one there is; the words that paſſed in the meeting, were, that the preſent adminiſtration, in adviſing the preſent proceedings, was guilty of High Treaſon. In theſe, I believe it is rather put as a queſtion, by ſaying, are they not guilty of High Treaſon by ſuch advice?

Q. Are they the reſolutions, except that difference, in the paper you received from Hardy?

A. They are.

Q. Will you be ſo good as look at the papers, and tell me whoſe

whoſe hand-writing they are? Whoſe hand-writing is T. Hardy?

A. Having ſeen Mr Hardy, as ſecretary, frequently write, in the diviſions, I firmly believe that to be his hand-writing; alſo that, and that, (holding different papers;) and this I believe to be Mr Hardy's ſignature; the letter is in another hand; the letter does not appear to be his hand-writing; this alſo is the ſignature, but not the body of the letter; I alſo believe that is his ſignature; that is his ſignature, and the whole of this I believe to be his hand-writing, (ſpeaking of ſeveral papers produced.)

Croſs Examination.

Q. Where do you live?

A. No 35. Fleet Street.

Q. What is your occupation?

A. I have no trade.

Q. How do you uſually employ yourſelf?

A. I have none but for my amuſement.

Q. How do you amuſe yourſelf generally?

A. I have ſeveral ways, with my family.

Q. You ſay you are a member of the Correſponding Society.

A. I am.

Q. Are you a member of any other ſocieties?

A. No, ſir, not of that ſort.

Q. Why do you ſay not of that ſort?

A. Becauſe there are ot her.

Q. Do you mean to ſay, that you were not a member of the London Correſponding Society for any other purpoſe but amuſement?

A I became a member of the London Correſponding Society for no other purpoſe but amuſement. I had no other view; no view to give information of what paſſed there.

Q. How long were you a member of the London Coreſponding Society?

A. I became a member of the London Correſponding Society the 27th of January.

Q. Do you truſt to your memory for every thing that paſſed there?

A. I do not, I took ſome notes of matters that paſſed there?

Q. When did you take your notes?

A. Immediately on quitting it.

Q. Do you take them regularly?

A. I took them regularly after I came home.

Q. Have you your notes about you?

A. I have.

Q. Be ſo good as, to produce them?

A. Yes, Sir.

Q. That is a large volume of notes?

A. Yes.

Q. Can you favour me with reading a ſmall part of them, only a few lines.

Mr Anſtruther. You may have all read if you pleaſe.

Counſel for the Defendant. No, Sir, I don't want them all read.

Witneſs. The firſt is at a meeting of the London Correſponding Society, Globe Tavern, Curaven ſtreet in the Strand, on Monday, January 20th, 1794. Mr Martin, by the appellation of Citizen Martin, was called to the chair; he addreſſed the meeting in a ſhort ſpeech, ſignifying the intention of calling them together, which was for the purpoſe of the ſociety at large adopting the ſeveral reſolutions that had been prepared for the occaſion, and which would be read and ſubmitted to their conſideration."

Q. Stop there, you begin with a particular phraſe, Mr Martin, by the appellation of Citizen Martin,—why do you ſay by the name of Citizen Martin?

A. If I am at a loſs, and misunderſtood the language, I am ſorry for it; but Mr Martin was not ſo called, as he uſually is, Mr Martin, but Citizen Martin.

Q. Is that common there?

A. It is, Sir.

Q. No perſon or member of that ſociety, I ſuppoſe, would addreſs another in that ſociety in that manner?

A. I beg pardon; that was the mode of addreſs of every member of that ſociety in common; and accidentally meeting in the ſtreet, it is common to adreſs them by that name.

Q. Have you always uſed the appellation of Citizen ſuch a one?

A. I have not always uſed it, not conſidering it neceſſary; and as to the minutes, I made them for my own obſervation and amuſement.

Q. Did you make uſe of thoſe minutes for your own amuſement?

A. I did.

Q. And upon oath you made them for your own amuſement?

A. I conſider myſelf ſtanding in that ſituation: I am before God and this high tribunal, and would not ſay an untruth for any conſideration.

Q. You ſay you made them for yo r own amuſement, and for no other purpoſe, and with no other view?

A. No other view.

Q. Did you afterwards give no information about it?

A. I had inſtructions to attend the Privy Counſel, and paſſed through examination, and I was aſked whether I had made notes; I ſaid I had, and I was deſired to ſend for thoſe notes.

Q. When were you examined before the Privy Counſel?

A About the 14th or 15th of May.

Q. Tell the ſtory how you came there?

A. I accidentally met a friend on the ſtreet, he ſaid, "have you a mind to go to the Globe Tavern in Fleet Street? I have a ticket, if you will go, you may be amuſed." I did go.

Mr Anſtruther. *Q.* When was that?

A. On the 20th of January. I went, I made my obſervations, and heard the reſolutions. Mr Thelwall read the reſolutions; it ſtruck me very forcibly from his manner. My friend ſaid, you had better become a member; I did; I had not then a knowledge of any member in his individual capacity, but as a collective body. I found their principles very different from what I was acquainted with; I conſidered them, and

thought them perſons that meant to overturn the Conſtitution. I went as a ſpectator.

Counſel for the Defendant, Mr Clerk.

Q. Was it at the firſt meeting you thought ſo ?

A. Not immediately—at the firſt meeting I thought it extraordinary.

Q. Notwithſtanding on the 20th January you found their principles ſo extremely different from yours, you continued to attend ?

A. I was induced to do ſo from curioſity.

Q. Why did you not then give information to Government ?

A. I was perfectly unacquainted with every perſon of Government till afterwards.

Q. They are very well known, you might have eaſily got acceſs to them ?

A. Having ſo little knowledge of them, and being ſo trifling an individual, I never attempted it.

Q. Did you ever aſſent to the reſolutions ?

A. I never abſolutely aſſented by the manner their reſolutions were paſſed, in the affirmative or negative, by ſhew of hands.

Q. What was the name of the friend who introduced you ?

A. Do you mean my particular friend ?—there is a ceremony of being introduced.

Q. Who introduced you to the Globe Tavern ?

A. Mr Samuel Webb.

Q. He introduced you to the ſociety,—what was the reaſon that induced him to introduce you ?

Mr Anſtruther. What does it ſignify what induced Mr Webb ?

Counſel for Priſoner. The queſtion I mean to draw him to is this, Did he publicly profeſs views that might induce Webb or others to deſire him to viſit the ſociety, or become a member ?

A. No, I made my obſervations to him, being ſtruck with the novelty of the ſcene ; he ſaid you might as well become a member.

Q.

Q. Were the people that took you there entirely unacquainted with your political ſentiments?

A. I went with my friend that produced the ticket and gave it me;—he was engaged himſelf, and aſked if I would go to dinner.—I conceived I was only going to join a convivial party.

Q. Did the landlord or any body elſe pay any thing in to carry on the ſociety?

A. Yes.

Q. Did you?

A. Yes; the expence was 13d. at being made, and one penny at each meeting.

Mr Anſtruther. Q. This gentleman has deſired you to ſtate one part of what paſſed on the 20th of January, at the globe tavern; be ſo good to ſtate what paſſed then at that meeting?

A. "Theſe reſolutions were then read by a young man "who ſtood next the chairman, whoſe name I afterwards un- "derſtood was Richter, firſt one, then the other; then "ſingly, and the queſtion put upon each by the chairman, "and moſt of them, by a ſhew of hands, carried unani- "mouſly."

Counſel for Priſoner.—I have heard of witneſſes refreſhing their memory, but never heard them read their notes.

Lord Advocate. Mr Clerk ordered him to do it—Mr Clerk—He is reading his journal verbatim by way of evidence, juſt now.

Mr Baron Norton. His papers cannot miſtake, therefore I think he had better read them.

Counſel for Priſoner. Q. Were they made at the time?

A. Yes; ſoon after they were. "Mr Thelwall on the "concluſion roſe, repeated thoſe reſolutions, and commented "upon them in very bold and ſtrong language, recommend- "ing their adoption, adding, that if miniſtry attempted "to land any foreign mercenaries, or ſubſidized troops, then "to repel force by force."

"There

" There were near 1000 perſons aſſembled, 500 of which " ſtayed, and partook of a dinner provided on the occaſion. " Soon after the cloth was drawn, Thelwall took the chair, " gave ſeveral toaſts,—firſt, the Rights of Man, and ſung " many Republican ſongs; moſt of thoſe ſongs were after- " wards printed, and ſold by him in the ſeveral diviſions, and " at his lectures."

" Thelwall and John Williams were two of the ſtewards " on this occaſion,—Gerald was alſo preſent, and, I believe, " a ſteward."

Mr Anſtruther.—I have no more queſtions to aſk this witneſs.

Mr Clerk.—*Q.* You ſay you were examined by the privy council, how came you to be examined by them?

A. I was ſent for, as many of the members were.

Q. Had you made any application to the members of the privy council?

A. I had not.

Q. It was not by your own means you were ſent for to the privy council?

A. No.

Q. Nor by any ſuggeſtion of yours?

A. No, Sir.

Q. What induced you to come down here?—I heard you ſay you live in London, are you upon a viſit?

A. No, Sir, I came down here from the privy council, with one of the King's meſſengers.

Q. At your own expence?

A. At preſent.

Lord Advocate.—You were there the 12th of May?

A. Yes, I was examined before the privy council.

Q. And Hardy was taken up on the 12th?

A. On the 12th: Am I to receive thoſe two papers now?

Mr Anſtruther.—No, Sir, when the Jury have done with them.

MR.

MR LAUZUN *Sworn.*

Q. Look at that paper Sir,—ſee if you know it?

A. Yes Sir, I know it very well,—it is a letter I found in a book caſe in Hardy's houſe.

Q. Were you employed to take him up?

A. Yes, I had a warrant from the Secretary of State.

Q. You took him into cuſtody, and ſearched his houſe?

A. Yes I did.

Q. And you found that paper?

A. Yes.

Q. Look at that, you found that at the ſame time?

A. Yes, Sir.

Lord Advocate.—It is a letter ſigned William Skirving, dated 25th May 1793,—he found thoſe papers in Hardy's houſe, under a warrant from the Secretary of State, and took that man in cuſtody, and the printed letter you will have read, ſigned Thomas Hardy.

Mr Anſtruther.—*Q.* What are you?

A. One of the King's meſſengers.

Q. By virtue of a warrant from the Secretary of ſtate, you took him up, and found theſe papers?

A. Yes I did.

ALEXANDER AITCHESON *Sworn.*

(According to the Scotch form.)

Mr Anſtruther.—*Q.* Now recollect that you are upon your oath, and you will recollect the conſequences of ſtanding in that ſituation.—Look at thoſe papers,—don't tell me what they are; but whether they are your hand writing?

A. The greater part are my hand writing.

Q. Shew me which part of it is your hand writing?

A. The liſt, Sir, is my hand, and all theſe.

Q. What is the liſt?

A.

A. A list of the members of the Delegates of the British Convention.

Q. Was David Downie a member of the Convention?

A. If he was, his name will appear as a member.

Q. Were you Secretary to that Convention?

A. I was only assistant to Mr Skirving, who was Secretary.

Q. It was your business to receive the motions that were given in?

A. That was part of it.

Q. Is that name, David Downie, your hand writing?

No answer.

Mr Cullen.—You said you would produce the proceedings of the British Convention, to shew the intention of them, but would not shew any thing in them to shew David Downie was concerned with them?

Lord Advocate.—After the answer the Solicitor General gave, I trust your Lordships will hardly doubt I am entitled to prove them.

Mr Clerk.—The answer made by Mr Solicitor General, upon the occasion alluded to, is inapplicable to the present objection. We then insisted that you could not prove the *proceedings* of the late Convention. But we now make a very different objection, which is this; let the proceedings of that Convention be what they may, you cannot be allowed to prove that the prisoner was a *member* of it, and therefore, you are not entitled to produce the minutes, with that view, or to take notice whether the prisoner's name appears in them or not. The prisoner is not charged in the indictment, with having been a member of the late Convention, nor could such a charge have been received by the Court; because the prisoner was examained as a witness for the Crown, with regard to the proceedings of the Convention. But evidence, applying to a charge which is not made, and which could not be received, if it were made, is totally inadmissible. Neither is this evidence at all necessary to the prosecutor's case. The prisoner is only charged with a conspiracy to form a new Convention, alleged to be similar in its nature to the late Convention, and

it

it is ſaid, that the late Convention was of a criminal nature. All that is neceſſary, therefore, to be proved, with regard to the late Convention, is, that it was of a criminal nature; and it is of no conſequence to the proſecutor's caſe, whether the priſoner was a member of it or not.

Mr Anſtruther—I charge him with continuing to promote the views of the Britiſh Convention, and being aiding and aſſiſting towards calling another and ſimilar Convention. In order to prove what another and ſimilar Convention was, I muſt prove what this was, and that Downie knew what it was.

Mr Cullen—Mr Anſtruther's anſwer to me, was, I dont care whether Downie was a member of the Britiſh Convention or not; all I mean to ſhew is, a Convention then met, and had certain objects in their view, and came to certain reſolutions; —that is what Mr Anſtruther had alone in his mind; now, he goes to ſhew David Downie was a member of that Convention, which I apprehend has nothing to do with the caſe; and any thing concerning David Downie with the Convention, or in that Convention, is not now to be gone into, conſiſtently with the aſſurances he received on the former trials, that he was not to be brought into queſtion for it.

Mr Anſtruther.—I thought the objection made, and I anſwered it.

Mr Clerk.—It ſeems to be acknowledged, on all hands, that they went upon unwarrantable proceedings; they were charged with ſedition.

Mr Anſtruther.—Remove the witneſs.

Mr Clerk.—We have formerly heard it ſtated, from the higheſt authority on the bench, that to ſay a man had been a member of that Convention, was to accuſe him of the crime of ſedition. But according to the doctrines laid down ſince this Court was opened, the conduct of that Convention amounted to a crime ſomewhat higher than ſedition; in ſhort, it was treaſonable. And the Lord Advocate has expreſsly ſaid, that the London Correſponding Society, with which the late Convention was connected, had treaſonable projects in

view, from which the plain inference is, that the late Convention, before its diſperſion, was guilty of High Treaſon. It would follow, that by proving the priſoner to have been a member of that Convention, a charge of High Treaſon would be proved againſt him; for it muſt be ſuppoſed, that he was acceſſory to the common guilt. This is breaking faith with the priſoner, and directly againſt law, as he was examined as a witneſs for the Crown, with regard to the proceedings of the Convention; and it would create an improper influence on the minds of the Jury, and perplex the queſtion upon which they are to give a verdict. The priſoner is indicted for High Treaſon, and the Jury are to determine by their verdict, Whether he has been guilty of High Treaſon, or not. A ſpecific treaſon is charged in the indictment, and the proſecutor would now attempt to prove *another* Treaſon, which neither is, nor could be ſtated in the indictment. This is to confound and perplex the Jury with diſtinctions between Treaſons charged but not proved, and Treaſons proved but not charged.

Mr Anſtruther.—He is not indicted for being a member of the Britiſh Convention, or for any thing he did there.

Lord President.—Suppoſe the queſtion was put in this manner, "Do you know that the priſoner had acceſs to be acquainted with the proceedings of that firſt Convention?" Have you any objection to that?

Mr Cullen and *Mr Clerk.*—No.

Lord Advocate.—I have no objection to its being put in that way—call in the witneſs.

Lord President.—Mr Aitchiſon, take notice, I don't mean to aſk whether Mr Downie was or not a member of that Convention, but I put this queſtion to you, "Do you know whether Mr Downie had acceſs to know what were the proceedings of the firſt Convention.—Had he or not acceſs to know the nature of the buſineſs done in that Convention, or their proceedings?

A. I ſuppoſe he had acceſs to know it from news-papers and a number of people were viſitors; he might have acceſs; but

but whether he had or not knowledge of it, I cannot tell; he certainly had acceſs, and the public had acceſs.

Q. Do you know he had acceſs yourſelf?

A. I have ſeen him there.

Q. Do you know your own hand writing?

A. Yes, I know this.

Q. Where did you write that?

A. I wrote that I think in the Committee of Union.

Q. What is the date of it?

A. I think it has no date.

Q. Do you know George Roſs's hand writing?

A. Yes, I have a gueſs at it.

Mr Cullen.—There is one thing I ſubmit to your Lordſhips, becauſe I conceive it to be the law, not only of Scotland, but every other country whatever, that no witneſs can be aſked a queſtion, the anſwer to which may criminate himſelf; if he is called upon to give evidence with reſpect to the proceedings of the Britiſh Convention, the anſwer may criminate himſelf, and therefore I ſubmit that the witneſs ought to be put upon his guard, and ought to be told that he is not obliged to anſwer any queſtion that he thinks may have that effect.

Mr Clerk.—There is a very great difference between the law of England, and the law of Scotland, upon this ſubject. In the Scotch criminal courts, when a *ſocius criminis* is adduced as a witneſs for the Crown, he is told by the Judge, that his evidence will not militate againſt himſelf, and even, that by giving his evidence, he is ſecured from any future proſecution, upon the facts to which it relates. He is therefore bound by his oath to tell the truth, and the whole truth, without any exception of ſuch truths, as may involve himſelf in the guilt of the priſoner. It is *pars judicis* to give him this information, and every lawyer who hears me, knows it is the univerſal practice. But, my Lords, this is an Engliſh court, and the law of England is very different. A witneſs, by giving evidence for the Crown, does not diſcharge himſelf of the crime. He may afterwards be proſecuted for the ſame crime,

and there are even caſes, in which the very depoſition of the priſoner, when formerly examined as a witneſs, has been uſed as evidence in order to convict himſelf. This being the rule of Engliſh law, a witneſs is not bound to ſpeak the whole truth. He is entitled to make a reſervation of ſuch truths as would involve him in guilt; and if any queſtion is put, the anſwer to which would criminate him, he may refuſe to anſwer that queſtion. My Lords, I know it will be ſaid, on the part of the proſecutor, (I heard it urged the other day on Watt's trial, but it did not ſatisfy me,) that the witneſs himſelf is the beſt judge of what may involve him in guilt: And it is ſaid, that if a witneſs might be brought to trial, upon the ſame facts with regard to which he had given evidence, there would be an end to evidence by a *ſocius criminis*. With regard to theſe objections, the witneſs is no doubt the ultimate judge, how far he is in ſafety to anſwer the queſtions that are put to him. But every witneſs is not a lawyer; he may be miſtaken in his opinion, and therefore, he ought to be put on his guard, by the Court. Accordingly, my information is, that in England, it is held to be the duty of the Judge, to put the witneſs on his guard, whenever a queſtion is aſked, the anſwer to which may criminate him; and after he is ſo put on his guard, he anſwers the queſtion or not, as he pleaſes. As to *ſocii criminis*, I believe very little could be had from their evidence in England, if they did not previouſly receive ſuch aſſurances as they could rely upon, that they ſhould not be proſecuted. They are entitled to warning as well as others, with regard to what part of their evidence may militate againſt them; but they may find it more prudent to give their evidence, than to run a much greater riſk from not giving their evidence.—But beſides the duty of the Court in this reſpect, I am informed that, in practice, the priſoner's council are allowed to ſuggeſt to the Court, what queſtions may endanger the witneſs. The priſoner has plainly an intereſt, that the witneſs ſhould not be entrapped by ſuch queſtions.—And therefore, I do humbly preſume, that the witneſs will be put on his guard by your Lordſhips, againſt ſuch queſtions as may

involve

involve himſelf in guilt, eſpecially where the guilt is alledged to be no leſs than High Treaſon.

Lord Advocate.—I ſhall not trouble your Lordſhips with many obſervations; but one thing dropped from Mr Clerk, which was, that he had an intereſt in the witneſs not anſwering; upon which I muſt make one remark. Whatever may be the intereſt of the priſoner, or of the proſecutor, it is for the intereſt of the country, that the truth ſhould prevail.—It may be the privilege of the witneſs, if he chuſes, not to anſwer any queſtion; but the counſel has not the privilege of telling the witneſs, that he ſhall not anſwer the Court upon oath, if he pleaſes.

Mr Cullen.—When I underſtand the rule, I ſhall comply with it; what I am going to notice, is a caſe the gentlemen will not probably have forgot, a very recent one. It was that of Mr Purefoy for killing Colonel Roper, tried before Baron Hotham. A queſtion was put to a General Officer, which the counſel for the priſoner objected to, as the anſwer might involve him in criminality himſelf; upon long arguments the Judge determined it would, and it was put in another ſhape.

Mr Anſtruther.—I believe Mr Cullen's authority for this is no other than a news-paper: It muſt be otherwiſe: It cannot be doubted that the witneſs may anſwer if he pleaſes.

Lord Chief Baron.—There is no principle more ſettled in the courſe of adminiſtration of Juſtice, than that no witneſs is bound to criminate himſelf in giving evidence. Judges often give notice of this to the witneſs; but the doing it or not, is a matter of diſcretion, which ought to reſt with the Judge, according to the ſituation in which the witneſs happens to be placed; the parties have no title to interfere.

Mr Baron Norton.—The principles of common reaſon and law, will not oblige a witneſs to give anſwers to criminate himſelf; but there is nothing to prevent his doing it; nor is it for the priſoner's council to make that objection: The Lord Advocate has not ſaid, that he is afterwards to try this witneſs, nor could he with propriety be brought to trial; he is therefore at full liberty to ſpeak out the truth.

Mr

Mr Anſtruther.—It is clear, the witneſs could not criminate himſelf in anſwering this queſtion, he is only aſked if that paper was Roſs's hand writing.

Lord President.—In civil courts, it ſometimes happens that witneſſes are adduced to give evidence, upon facts of a criminal nature, between parties who have no authority or power to diſcharge the proſecution before a court of criminal juriſdiction, if any ſuch ſhall ariſe out of the facts thus meant to be given in evidence. In ſuch a caſe, and where the queſtion put tends to draw an anſwer which may criminate the witneſs himſelf, I underſtand it to be the duty of the judge, to give notice to the witneſs, that he is at liberty to decline making an anſwer to the queſtion, on account of the effect which it may have againſt himſelf; not that the anſwer, if made, could be uſed as evidence elſewhere, but that it might lay a foundation for his being proſecuted, by giving information of his own guilt. But, with reſpect to the proceedings in Courts of criminal juriſdiction, which I had occaſion to be well acquainted with, as public proſecutor, for ſeveral years, I know that it is common, and often neceſſary, to admit accomplices in the crime, as witneſſes againſt the priſoner, otherwiſe crimes would too often go unpuniſhed. But I always underſtood it to be a ſettled rule, that his Majeſty's Advocate, proſecuting for the King, could not, after making ſuch uſe of an accomplice, or *ſocius criminis*, bring the witneſs himſelf to trial for the ſame crime. Neither would it make any difference, as very ingeniouſly ſuggeſted from the bar, that the perſon of the Advocate was changed by death, or otherwiſe; for in every ſuch buſineſs, his Majeſty's Advocate acts officially, and there can be no doubt that the ſucceſſor in office, would be bound by what his predeceſſor did. This rule ſtands upon the principles of plain good ſenſe, juſtice, and utility; and has been ſactioned by immemorial practice with us. I do not profeſs to have the ſame knowledge of the law or practice of England; but I deſire to be informed by thoſe who do know it, how the matter is underſtood there, and in trials ſuch as the preſent; or, at leaſt, I deſire to know explicitly

explicitly from his Majeſty's Advocate, whether this witneſs, Mr Aitchiſon, or any other witneſs who may be adduced by him in this trial, does, or does not remain expoſed to be tried by him for the ſame crime. If I receive an anſwer in the affirmative, I ſhall think it my duty to inform the witneſs, when a queſtion is put to him, tending to criminate himſelf, that he is at liberty to decline anſwering it. But if I am aſſured that the witneſs runs no riſk of being proſecuted himſelf, being virtually or expreſsly liberated from the charge, ſo far as he himſelf may be concerned, in conſequence of his being called as a witneſs, and ſpeaking out the truth in this trial, it will be my duty to tell him, that he is bound to ſpeak out the whole truth, and that he is in ſafety ſo to do.

Lord Advocate.—The preſent witneſs, Aitchiſon, being a Scotchman, and reſiding within the County of Edinburgh, he can only be tried in this county, and by a Jury of this county; as public proſecutor for Scotland, I explicitly declare in this Court, that it is not my intention, and I never will bring Aitchiſon to trial, for any accceſſion to the crime of treaſon charged againſt this priſoner, ſo far as the witneſs may have been acceſſory to it, previous to this trial.

Lord Chief Baron.—I ſerved a good many years as proſecutor in this country, and I always underſtood, when I brought a *Socius Criminis*, as a witneſs, that my hands were tied up from the proſecution of him for any thing ſpoke at that bar. But if he would not ſpeak out, I thought myſelf at liberty to proſecute him for any thing he did not ſpeak out; a perſon being brought to the bar, and not ſpeaking, ſhould that protect him from trial for any offence, when he is only protected for what he ſhall ſpeak upon that trial?

Lord President.—I am of the ſame opinion; if he refuſes to ſpeak, he is not a witneſs; he may be put back to his former ſituation.

Lord Advocate.—What the Honourable Judge has ſtated is perfectly right, and the law.

Mr

Mr Anſtruther.—I believe that is correctly the practice in England; I know of no inſtance where a Judge has tried a perſon that has come forward voluntarily, and given evidence: there have been caſes of this ſort, where a perſon who is called as a witneſs, refuſed to anſwer, and has been tried, but where a witneſs has told the truth, I believe there is no inſtance of his having been tried, although certainly it does not amount to a pardon; if ſuch perſons act fairly, and diſcloſe the whole truth, although they are not entitled of right to a pardon, the practice is, to ſtop the proſecution againſt them, and if it was a capital offence, the Court of King's Bench would bail, in order that the perſon might apply to the Crown.

Lord Eskgrove.—I think it fit to ſay a few words on this ſubject, as being the ſenior Judge of the Court of Juſticiary, (now preſent) in which Court I have ſat 9 years, and had before attended it ever ſince I came to the bar. I never doubted that the Law of Scotland now ſtands as it has been explained, both by your Lordſhip, and the Lord Chief Baron. In this country, and I believe in every country which has a regular Conſtitution and Government, *Socii criminis* are admiſſible witneſſes in trials for crimes; and, indeed, in many caſes, juſtice could not be done, nor the greateſt criminals convicted, without the aid of ſuch evidence; accordingly, very few caſes have been tried in my time, of a complicated nature, in which many perſons have been concerned, where *Socii criminis* were not examined;—but I never knew an attempt made by the Proſecutor, to bring afterwards to trial for the ſame crime, any perſon who had been examined as a witneſs upon that crime, to which he had been acceſſary, and who had not refuſed to give evidence, but had given evidence. I had conceived a notion in my own mind, that, if ſuch an attempt ſhould be made, the Judges, who are to determine upon the Law of the land as it ſtrikes them, would not ſuffer a perſon ſo circumſtanced, to be ſubjected to a trial, and conſequently, that it is not optional in the Public Proſecutor to bring him to trial or not, for that the Court would interfere, and prevent ſuch trials proceeding—although that caſe has

not

not yet occurred. Here the Public Profecutor has thought fit to bring, by *Subpœna*, to give evidence, a perſon, who, in the language of England, is an aſſociate in the crime; and if that perſon ſhould ſay nothing after he is ſworn, it would not prevent him from being tried; but his giving evidence is the thing that muſt ſecure him. I did not, however, conceive that the queſtion now put to Mr Aitchiſon, could have led to the diſcuſſion of this point, becauſe he formerly gave evidence in a caſe that was tried upon a charge for Sedition, reſpecting what is called the *Britiſh Convention*, in conſequence of having been then told, that his giving evidence was to ſecure him from being tried for any crime, whether under the name of Treaſon or Sedition, ariſing out of his having been a member of the Britiſh Convention. I therefore think there is no place for the objection in his caſe; and, with reſpect to any other witneſſes who may have been accomplices, I am of the ſame opinion with your Lordſhips; it is not competent for the priſoner's counſel to object, although the witneſs himſelf may decline to anſwer to queſtions, tending to criminate himſelf; but if he chuſes to anſwer, and gives evidence, I conceive he will be ſecure againſt any future proſecution.

Lord Swinton.—If an accomplice could not be produced as a witneſs, it would be impoſſible to diſcover crimes. When ſuch a perſon is brought to be examined as a witneſs, it is not the right of the priſoner, to object to his admiſſibility upon that ground; it is the right only of the witneſs himſelf to object; and if he does object, then the duty of the Court is to tell him he is not bound to anſwer any thing that may criminate himſelf; and if he is ſilent as a witneſs, he certainly ſubjects himſelf to be brought, though not in the character of a witneſs, yet in the character of a priſoner, to the bar. If, without objecting, he ſhall give his evidence, it is the fixed practice of every Court of Law, of which I have had occaſion to hear or read, that he cannot be brought to trial upon account of any thing he ſays; it is a protection to him that he cannot be brought to trial on that account; but I ſee no

buſineſs the Court or any body elſe has to ſuggeſt to a witneſs that he is not to anſwer any thing; it is giving him a hint not to do his duty to his country, and to tell the truth,—ſo I concur in the opinion given by the whole Court.

Lord Dunsinnan—I concur with the Lord Preſident and the reſt of the Court, that the priſoner and the counſel have no right to ſuggeſt to the witneſs that he is not bound to anſwer.

Lord Abercromby—Concurred in the ſame opinion.

Mr Clerk.—My Lords, I ſee the queſtion I mean to put to Mr Aitchiſon will come more properly afterwards.

Mr Anſtruther.—*Q.* (to Mr Aitchiſon) Do you know George Roſs?

A. Yes.

Q. Was he your aſſiſtant?

A. He aſſiſted Mr Skirving along with me.

Q. See if you know his hand writing?

A. I think that is his hand writing.

Lord Advocate.—The jury will attend; we have proved ſome papers which I mentioned, and the clerk may now read them.

Mr Anſtruther.—*Q.* (to Aitchiſon) The motions that were made in that Convention were handed over to you, were they not?

A. Generally while I was there.

Q. Tell us whether that is one?

A. It is.

(Letters produced and read:)

Clerk of Arraigns.—This is a letter ſigned Thomas Hardy, Secretary, No. 9. Piccadilly, and is dated London, 17th May 1793, and directed to Mr William Skirving, Secretary of the Society of the Friends of the People, Edinburgh.

" Sir.—The London Correſponding Society eagerly ſeize " the opportunity of Mr Urquhart going back to Edinburgh, " to requeſt of your ſociety a renewal of correſpondence, and " a more intimate co-operation in that which both ſocieties " alike ſeek, viz. a reform in the parliamentary repreſentation.

" we

" We are very ſenſible that no ſociety can by itſelf bring " about that deſirable end; let us therefore unite as much as " poſſible, not only with each other, but with every other So- " ciety throughout the nation; our petitions, you will have " learned, have been all of them unſucceſsful; our attention " muſt now therefore be turned to ſome more effectual " means; from your ſociety we would willingly learn them, " and you, on your part, may depend upon our adopting the " firmeſt meaſures, provided they are conſtitutional, and we " hope the country will not be behind hand with us.

" This war has already opened the eyes of many; and, " ſhould it continue much longer, there is no anſwering for " its effects on the minds of the people.

" Our ſociety has met with much perſecution, nevertheleſs " we go on increaſing in numbers, and political knowledge. " Wiſhing you and your cauſe all ſucceſs, I remain, moſt " cordially—Sir—your friend and fellow labourer."

" THOMAS HARDY, *Secretary.*"

To the Secretary of the Society of the Friends of the People, Edinburgh.

Clerk of Arraigns—This letter is directed to Mr Hardy, it is dated Edinburgh 25th May 1793.

MR HARDY,

" SIR,—Mr Urquhart did me the pleaſure to call on " Thurſday afternoon, and delivered your letter of the 17th " current; I am much pleaſed with the contents of it, and " ſhall lay it before the firſt meeting of our ſocieties here, " which however does not take place till Monday ſe'ennight. " I would have acknowledged the receipt of your favour by " yeſterday's poſt, but was too much employed in removing " our houſehold to another lodging, to attend to any thing " elſe.

" If either you in England, or we in Scotland, ſhould " attempt ſeparately the reform which we, I truſt, ſeek to

" obtain, we ſhould by ſo doing only expoſe our weakneſs,
" and manifeſt our ignorance of the corruption which
" oppoſes our important undertaking;—If we ſought on-
" ly the extirpation of one ſet of intereſted men from
" the management of national affairs, that place might be
" given to another ſet, without affecting the vitals of the
" ſyſtem, adverſe to Reform. Theſe might be eaſily accom-
" pliſhed; but to cut up deep and wide rooted prejudices, to
" give effectual energy to the dictates of truth, in favour of
" public virtue, and national proſperity, in oppoſition to ſelf,
" and all its intereſted habits, and to withſtand and over-awe
" the final efforts of the power of darkneſs, is the work of the
" whole, and not of a part; a work to which mankind, till
" this awful period, were never adequate, becauſe never till
" now diſpoſed to fraternize, not merely, or only I truſt,
" from the ſenſe of the common danger to which we are ex-
" poſed, but from the ennobling principle of univerſal bene-
" volence.

" I know no greater ſervice that I can do to my country,
" than to promote the union you ſo wiſely deſire; and I am
" happy to aſſure you, that I have hitherto diſcovered no ſen-
" timent in our aſſociation, adverſe to the moſt intimate and
" brotherly union with the aſſociations in England.

" I think the minds of all muſt, in the nature of things,
" be now turned to more effectual means of reform. Not
" one perſon was convinced of the neceſſity of it, by the
" moſt convincing arguments of reaſon, together with the
moſt unequivocal expreſſions of univerſal deſire. What
then is to be hoped for from repetition? I am only a-
" fraid that the bow in England againſt Reform, was ſo con-
tracted, that in returning it may break. You will willingly
" learn, you ſay, from us: I own that we ought to be for-
" ward in this; we have at once, in great wiſdom, perfected
" our plan of organization, and if we were in the ſame inde-
" pendent ſtate of mind as the people of England, we ſhould
" be able to take the lead. The aſſociations with you are no
" more, I fear,—excuſe my freedom,—than an ariſtocracy

" for

" for the good of the people. They are indeed moderate, " firm, and virtuous, and better cannot be; but we are the " people themſelves, and we are the firſt to ſhew, that " the people can both judge and reſolve, if undirected by " faction, with both wiſdom and moderation.

" I have not a higher wiſh in the preſent exertions for Re- " form, than to ſee the people univerſally and regularly aſ- " ſociated; becauſe, I am perſuaded, that the preſent diſ- " aſtrous engagements will iſſue in ruin, and the people " then muſt provide for themſelves; and it would be un- " happy, when we ſhould be ready to act with unanimity, " to be occupied about organization; without which, how- " ever, anarchy muſt enſue: we will not need but to be pre- " pared for the event, to " ſtand and ſee the ſalvation of the " Lord." Let us therefore take the hint given us by our op- " poſers: let us begin in earneſt, to make up our minds rela- " tive to the extent of Reform which we ought to ſeek; be " prepared to juſtify it, and to controvert objections; let us " model the whole in the public mind, let us provide every " ſtake and ſtay of the tabernacle, which we would erect; ſo " that, when the tabernacles of oppreſſion, in the palaces of " ambition, are broken down, under the madneſs and folly " of their ſupporters, we may then, without anarchy and all " dangerous delay, erect at once our tabernacle of righteouſ- " neſs, and may the Lord himſelf be in it!

" How hurtful to the feelings of a reflecting mind, to look " back to the wretched ſtate in which the Roman Monar- " chy, enfeebled and broken by its own corruptions, left the " nations which it had ſubjected, like ſheep without a ſhep- " herd. They ſoon became a prey to every invader, becauſe " there was none to gather or unite them; had they, fore- " ſeeing the evil, aſſociated for mutual defence, no robber " would have been able to enſlave them; they would have " given laws to all parties, as well as to themſelves; all ſe- " parate colonies and nations would have ſought their alli- " ance; but not having virtue to aſſociate and heal the divi- " ſions, and root out the ſelfiſh ſpirit which ambition foſter-

" ing

" ing Governments procure to their ſubjects, they fell un-
" der oppreſſions, from under whoſe iron ſceptre they have
" never yet been able to deliver themſelves.

" We may ſuppoſe an event which we deprecate, nay ſhould
" we not be prepared for every poſſible iſſue of the preſent un-
" precedented diviſions of mankind, we have a right to be ap-
" prehenſive of the abilities of our managers, who are ſo afraid
" to depart from precedent, that, like men of detail, they may
" be inadequate to the taſk of preſerving the veſſel from ſhip-
" wreck, now grappling with danger, not only great, but new
" and uncommon. If the preſent miniſtry fail, who after them
" ſhall be truſted? It requires little penetration to ſee the An-
" archy and diſcord which will follow; it will be ſuch, that
" nothing ſhort of a general union among the people them-
" ſelves, will be able to heal. Haſte, therefore, to aſſociate, at
" leaſt, to be ready to aſſociate. If then ſuch a broken ſtate of
" things ſhould take place, the civil broils that would neceſſa-
" rily enſue, would ſoon ſubſide before the united irreſiſtible
" voice of the whole. Do not, I intreat you, heſitate thinking
" ſuch a work premature as yet; but a month and then it may
" be too late; a malignant party may be already formed, and
" only waiting for the halting of the preſent managers; it will
" then be too late to ſeek to ſubject to deliberation, after a
" party has dared the act of rebellion. If you go no further
" than ſeparate meetings in different towns, we will not be able
" to confide in your confraternity, becauſe, while in ſuch ſtate,
" you may be but the tools of faction. We could have all con-
" fidence, and unite with all affection, in one aſſembly of com-
" miſſioners from all countries of the world, if we knew they
" were choſen by the unbiaſſed voice of the people; becauſe
" they would come up with the ſame diſintereſted views and
" deſires as ourſelves, having all agreed to a common centre
" of union and intereſt; but we could not confide in fellow
" citizens, who kept aloof from ſuch union, and would not
" previouſly affiliate in one great and indiviſible family.

" In troubling you with ſo long an epiſtle, I have at leaſt
" ſhewn my inclination to correſpond. I have alſo hinted at

" things

" things which appear to me the preſent ſubjects of conſidera-
" tion; becauſe I am deſirous of your opinion upon them. I
" have poſſibly wrote with too much freedom, but you will
" place it to account of zeal in the cauſe, and on this ſcore, diſ-
" charge any deſign which is diſintereſted and philanthropic.
" With ſincere eſteem and affection, I am, Sir, your well-
" wiſher, WILLIAM SKIRVING, *Secretary.*

Clerk of Arraigns.—This is a letter which is dated London, the 5th of October, 1793, and ſigned Thomas Hardy, addreſſed to William Skirving, head of Horſe Wynd, Edinburgh:

" DEAR SIR,

" WITH pleaſure I peruſe your favour of the ſecond inſtant; " but as yet have ſeen nor heard nothing of the two copies of " Mr Muir's Trial, which you mention as being ſent to the " Society, and to myſelf. Be kind enough, notwithſtanding, " to return that gentleman thanks for his polite attention, " and aſſure him, that we view him in the light of a martyr " to freedom, as well as Mr Palmer, and that our warmeſt " hopes are, that the oppreſſors of mankind will either be " aſhamed or afraid of carrying their revengeful malice into " execution.

" The General Convention which you mention, appears to " Mr Margarot, (to whom alone I have communicated your " letter) and myſelf, to be a very excellent meaſure, and as " ſuch I could wiſh you, without delay, to communicate it " officially to our Society, without any ways mentioning that " you had written to me privately. If, in your official letter, " you ſhould require us to ſend a deputation to that meeting, " I have no doubt but our Society would, with pleaſure, ac-" cept the invitation, and I am perſuaded it may do much " good. Our freedom, as you juſtly obſerve, depends entire-" ly upon ourſelves, and upon our availing ourſelves of this op-" portunity, which, once loſt, may not be ſo ſoon recovered. " I am glad to diſcover, by your teſtimony, that I was no " ways miſtaken in the high opinion I always had of Lord " Daer's patriotiſm. A title may be a bar to diſintereſted

" patriotiſm,

" patriotiſm, but it ſeems he has evinced it to be not an inſu-
" perable one.

" You are right, it is true, that we have had another ge-
" neral meeting, at which a haſtily compoſed, and ſuddenly
" produced addreſs to the King was read, applauded, and a-
" greed to be preſented; but, on a cool reviſal, the ſaid addreſs
" being found to be more ill-natured than ſpirited, more dar-
" ing in its language than advantageous in its object, beſides
" being too long, the Committee, with the approbation of the
" majority of the Society, have adopted another, much ſafer,
" more appoſite, and relating ſolely to the war. Incloſed
" you have a copy of it; but you was miſinformed, when
" you was told we paſſed any reſolutions at that meeting; for
" we only came to one, and that rather of a private nature,
" namely, " That the conduct of Sir James Saunderſon, in
" preventing the meeting of the London Correſponding So-
" ciety, at the Globe Tavern, Fleet Street, was of ſuch na-
" ture, as to place him below our cenſure. Dear Sir, pleaſe
" to write to the Society, as ſoon as poſſible, officially. I am,
" moſt ſincerely, your fellow labourer, and well-wiſher,

" THOMAS HARDY."

P. S. " Mr Margarot deſires to be remembered to you in
" the moſt affectionate manner; do not, in future, in the
" addreſs of your letter, mention any thing of the London
" Correſponding Society, for it was a thouſand to one that
" I received that letter by poſt."

Clerk of Arraigns.—This is a letter, dated London, November 8th, 1793, addreſſed to Mr Margarot, and Mr Gerald, delegates from London.

" FELLOW CITIZENS,

" I duly received your favour of the 4th inſtant, and laid
" it before the committee of delegates laſt night, who were
" anxiouſly waiting for intelligence from Edinburgh, and
" were well ſatisfied with the agreeable account of the great
" number, and zeal of the friends of freedom in Scotlrnd.
" That part of your letter, which mentioned your viſiting dif-

" ferent

" ferent towns in Scotland, for the purpoſe of promoting the " cauſe—they were pleaſed with the idea, but they thought " that it could not be put in practice, on account of the neceſ- " ſary ſupplies, which come in but very ſlowly. It is to be " mentioned in the different diviſions, we have elected J. " Baxter (by ballot) as Chairman of the Committee, for the " remainder of the quarter; we have alſo appointed a Com- " mittee of Conſtitution, ſeparate from the Committee of De- " legates. One member is choſe from each diviſion, to meet " on this night for the firſt time, and to be totally uncon- " nected with the Committee of Delegates. We ſtill in- " creaſe in numbers, and the addreſs to the King to put an " end to the war is ordered to be advertiſed to receive ſigna- " tures, in the Courier, Chronicle, Eyer's Sunday Gazette,— " afterwards by hand-bills, &c. We have opened a correſpon- " dence with a new ſociety at Briſtol. I have to inform you of " the wiſh of the Society, that you would favour them with the " number of delegates in the Convention and the number from " England alſo, and how the civil and military power reliſhes " your meeting, and that you would ſend ſuch a report from " the Convention, as might appear in the newſpapers in Lon- " don. Send me an Edinburgh Gazetteer, when there is any " thing in it of importance; I would have ſent you a Courier, " but they inform me they have ſent ſeveral to the Coffee- " houſes and Taverns in Edinburgh, for that reaſon I thought " it unneceſſary. I hope to have more time to write to you " more fully next time,—as Sir James Murray ſays; the poſt " is juſt going off, No more at preſent from

" THO. HARDY, *Secretary.*"

Clerk of Arraigns.—Theſe are " Articles of Inſtruction, given to Citizen Joſeph Gerald, delegate from the London Correſponding Society, to the enſuing Convention in Edinburgh, for the purpoſe of obtaining a thorough Parliamentary Reform, dated, " General Meeting, 24th October, 1793." " This paper of Inſtructions is ſigned by Richard Hodgſon, Chairman, Thomas Hardy, Secretary."

1ſt, " He ſhall on no account depart from the original object and principles of the Society, namely, the obtaining

Annual Parliaments, and Univerſal Suffrage, by rational and lawful means.

2d, " He is directed to ſupport the opinion, that Repreſentatives in Parliament ought to be paid by their Conſtituents

3d, " That the election of Sheriffs ought to be reſtored to the people.

4th, " That Juries ought to be choſen by lot.

5th, " That active means ought to be uſed to make every man acquainted with the rights and duties of a Juryman.

6th, " That the Liberty of the Preſs muſt at all events be ſupported, and that the publication of political truths can never be criminal

7th, " That it is the duty of the people to reſiſt any act of Parliament repugnant to the original principles of the Conſtitution, as would be every attempt to prohibit aſſociations for the purpoſe of Reform.

8th, " That the Society, conſidering all party names and diſtinctions, as hoſtile to the general welfare, do abſolutely reſtrict their delegate from aſſuming, or accepting any thing of that nature.

9th, " That this Society further require, that the delegate ſhall be punctual and frequent in his correſpondenee with the Society.

" Rd Hodgson, *Chairman.*
" Thos. Hardy, *Secretary.*"

Clerk of Arraigns.—This is a paper indorſed, Certificate directed to William Skirving.

" At a general meeting of the London Correſponding Society, held at Citizen Breellat's, Hackney Road, 24th October, 1793.

" This is to certify, that Joſeph Gerald was this day duly elected a delegate to repreſent this Society at the enſuing Convention, to be held at Edinburgh, for the purpoſe of obtaining a thorough Reform in the Parliamentary repreſentation of Great Britain. Richd. Hodgson, *Chairman.*
" Thos. Hardy, *Secretary.*"

Clerk

Clerk of Arraigns.—This is a paper directed to Citizen Margarot. It is the ſame paper as the other. Not read.)

Lord Advocate.—The article proved is this—" Convention Hall, 28th November, 1793, 9th day's ſitting."

" A. Scott gave in the report of finance, reſpecting the Secretary's accounts, and the ſame were ordered to be engroſſed.

" The Committee of Finance begged that they might be allowed to ſit again, which was agreed to, and they were ordered to meet on Saturday at 10 o'clock, and the Edinburgh Committee of Finance appointed to attend them.

" A motion preſented by George Roſs, for the Committee of Union to give in their report, was read, and it was anſwered they would do ſo, as the buſineſs was finiſhed.

" A letter from the Societies in Paiſley was read, where they expreſſed their approbation of the acts of the Convention, and begged that Citizen Skirving ſhould act for them as their delegate, which was granted accordingly.

Lord Advocate.—Read this.

(Reads.) " Citizen Sinclair read the amendments upon Citizen Callender's motion, as agreed upon by the Committee, and it was agreed, upon the motion of Citizen ————, that the Houſe ſhould reſolve itſelf into a Committee for its mature conſideration. In the courſe of the conſideration, Citizen Brown gave a hiſtory of the Habeas Corpus act; after an excellent diſcuſſion of the queſtion, pertinent remarks and amendments, the Convention was reſumed, and the whole, as amended, being read over, the members ſtood upon their feet, and ſolemnly and unanimouſly paſſed the reſolutions as follows."

(Here a page is left blank.)

Then it goes on in the ſame hand-writing,—

" Citizen Gerald, in an energetic, and animated addreſs, expreſſed his happineſs at the motion paſſed, and expoſed the act of the Iriſh Parliament, called a Convention Bill.

" And Citizen Brown followed him in a manly ſpeech,

and proved the influence of the Executive Government over the Parliament.

" Citizen Margarot read and propoſed the following motion; viz. That a ſecret committee of three and the ſecretary, be appointed, to determine the place where ſuch Convention of Emergency ſhall meet: that ſuch place ſhall remain a ſecret with them, and with the ſecretary of this Convention; and that each delegate ſhall, at the breaking up of the preſent ſeſſion, be intruſted with a ſealed letter, containing the name of the place of meeting. This letter ſhall be delivered unopened, to his conſtituents, the receipt of which ſhall be acknowledged by a letter to the ſecretary, preſerved in the ſame ſtate, until the period ſhall arrive, at which it ſhall be deemed neceſſary for the delegate to ſet off. This motion was ſeconded by Citizen Moffat, and the ſame was paſſed unanimouſly.

" The following citizens were nominated with the ſecretary, a ſecret committee on this buſineſs; viz. Margarot, Jo. Clerk and Browne, and they were requeſted to deviſe the beſt poſſible means of conveying this intimation to thoſe ſocieties whoſe views were the ſame with ours, but may not have delegates at this Convention."

Clerk of Arraigns.—This is a paper indorſed, Mr Sinclair's amendment of Mr Callender's motion.

" That the Convention, conſidering the calamitous conſequences of any act of the Legiſlature, which may tend to deprive the whole, or any part of the people of their undoubted right to meet, either by themſelves, or by delegation, to diſcuſs any matter relative to their common intereſt, whether of a public or private nature, and holding the ſame to be totally inconſiſtent with the firſt principles and ſafety of ſociety, and alſo ſubverſive of our known and acknowledged Conſtitutional Liberties, do hereby declare, before God and the world, that we ſhall follow the wholeſome example of former times, by paying no regard to any act, which ſhall militate againſt the Conſtitution of our country, and ſhall continue to aſſemble, and conſider of the beſt

beſt means by which we can accompliſh a real repreſentation of the people, and annual election, until compelled to deſiſt by ſuperior force.

' And we further reſolve, that the firſt notice given for the introduction of a Convention bill, or any bill of a ſimilar tendency to that paſſed in Ireland ſince the laſt ſeſſion of their Parliament; the ſuſpenſion of the Habeas Corpus act, or the act for preventing wrongous impriſonment in North Britain, and againſt undue delays in trial, which will render all the laws for the protection of our lives and our liberties nugatory, and as ſome have avowed their intention of introducing a motion for the repeal of one of them, or in caſe of an invaſion, or the admiſſion of any foreign troops whatſoever, into Great Britain, or Ireland,—all, or any of theſe, ſhall be a ſignal to the ſeveral delegates, to repair to ſuch place as the Convention ſhall appoint; and ſeven members ſhall have power to declare the Convention permanent.

" Reſolved, that the delegates to any Convention, meeting under any of theſe calamitous circumſtances, ſhall immediately repair to the place of ſitting, and there continue, until the number be twenty-one, and then to proceed to buſineſs.

" The Convention doth therefore reſolve, that each delegate, immediately on his return home, do convene his conſtituents, and explain to them the neceſſity of electing a delegate, or delegates, and of eſtabliſhing a fund without delay againſt any of theſe emergencies, for his or their expences, and that they do inſtruct the ſaid delegate, or delegates, to hold themſelves ready to depart, at an hour's warning."

Paper of the 11th day's ſitting read, dated 30th November, 1793.

" A motion of David Downie, to fine thoſe members who did not attend their ſections.

" The order of the day was called for.

" A motion for drawing out a ſcroll of a petition to Parliament, which being read, the order of the day was moved upon it.

Paper

aper of the 12th ſitting read, dated, " Monday, 2d December, 1793, firſt year Britiſh Convention.

" Citizen John Clark, maſon, in the Chair, and Citizens Downie and Romanes, aſſiſtants at the table.

" Read the minutes of the laſt ſitting.

" Upon its being moved that Citizen Smith's motion for petitioning Parliament be diſcuſſed immediately, it was agreed, that Citizen Smith ſhould withdraw it, and preſent another.

Clerk of Arraigns.—This is the hand-writing of Aitchiſon.

" Citizens Alexander Scott, and A. Callender moved, that the Britiſh Convention take under conſideration a reſolution paſſed at the laſt meeting of the Scots Convention to petition the Commons Houſe of Parliament for a Parliamentary Reform.

" Citizens James Smith, and Peter Wood, moved, that this Convention take under conſideration, whether, after the contemptible manner in which the late petitions for Parliamentary Reform were treated, they ſhall again petition for Reform, or at what period they ſhould recommend the ſame to their Conſtituents.

Lord Advocate—Now read the copy of the reſolutions that Taylor proved.

Clerk of Arraigns.—Theſe are the general reſolutions, made at the general meeting of the London Correſponding Society, held at the Globe Tavern, Strand, on Monday 20th January, 1794, Citizen John Martin in the chair. The following addreſs to the people of Great Britain and Ireland, was read and agreed to:

" Citizens,—We find the nation involved in a war, by which, in the courſe of one campaign, immenſe numbers of our countrymen have been ſlaughtered, a vaſt expence has been incurred; our trade, commerce, and manufactures are almoſt deſtroyed, and many of our manufacturers and artiſts are ruined, and their families ſtarving.

" To add to our affliction, we have reaſon to expect, that

other

taxes will ſoon be added to the intolerable load of impoſts and impoſitions, with which we are already overwhelmed, for the purpoſe of defraying the expences which have been incurred in a fruitleſs cruſade, to re-eſtabliſh the odious deſpotiſm of France.

" When we contemplate the principles of this war, we confeſs ourſelves to be unable to approve of it, as a meaſure either of juſtice or diſcretion; and, if we are to form our calculation of the reſult, from what has already paſſed, we can only look forward to defeat, and the eternal diſgrace of the Britiſh name.

" While we are thus engaged in an expenſive and ruinous foreign war, our ſtate at home is not leſs deplorable.

" We are every day told by thoſe perſons who are intereſted in ſupporting the Corruption liſt, and an innumerable hoſt of ſinecure placemen, that the Conſtitution of England, is the perfection of human wiſdom; that our laws, (we ſhould rather ſay their laws,) are the perfection of juſtice, and that their adminiſtration of thoſe laws is ſo impartial, and ſo ready, as to afford an equal remedy both to the rich, and to the poor, by means of which, we are ſaid to be placed in a ſtate of abſolute freedom; and that our rights, and liberties, are ſo well ſecured to us, as to render all invaſion of them impoſſible.

" When we aſk how we enjoy theſe tranſcendant privileges, we are referred to Magna Charta, and the Bill of Rights; and the Glorious Revolution, in the year 1688, is held out to us as the bulwark of Britiſh Liberty.

" Citizens,

" We have referred to Magna Charta, to the Bill of Rights and the Revolution, and we certainly do find, that our anceſtors did eſtabliſh wiſe and wholeſome laws, but we as certainly find, that of the venerable Conſtitution of our anceſtors, hardly a veſtige remains.

" The only chapters of the Great Charter which are now in legal exiſtence, are the 14th and 29th.

" The

" The important proviſion of the 14th chapter runs thus :

" A freeman ſhall not be amerced for a ſmall fault, but after the manner of the fault ; and for a great fault, after the greatneſs thereof, ſaving to him his contenement ; and a merchant, likewiſe, ſaving to him his merchandize ; and any other's villain than ours, ſhall be likewiſe amerced, ſaving to him his wainage ; and none of the ſaid amerciaments ſhall be aſſeſſed, but by the oath of honeſt and lawful men of the vicinage.

" But by the uſurped power of the Judges in aſſeſſing fines (and what fines ! !) in the caſes of miſdemeanour, this glorious right of the ſubject, of having theſe fines aſſeſſed by the Jury, (the only poſſible protection from ſlavery, and the vileſt oppreſſion) is unjuſtly, and infamouſly raviſhed from us."

" The proviſion of the 29th chap, runs thus :

" No freeman ſhall be taken or impriſoned, or be diſſeiſed of his freehold or liberties, or free cuſtoms, or be out-lawed, or exiled, or any otherwiſe deſtroyed ; nor we will not paſs upon him, nor condemn him, but by the lawful judgment of his peers, or by the law of the land ; we will ſell to no man, we will not deny or defer to any man, either juſtice or right.

" The various methods now in conſtant practice, by which the benefits of this proviſion are totally defeated, and deſtroyed, might induce us to ſuppoſe that the Great Charter has been repealed, if we did not aſſuredly know it is the fundamental baſis of our Conſtitution, which even the real repreſentatives of the people, (much leſs the miſerable nominees of Helſtone and old Sarum) have not the right, nor (as we truſt it will be found by experience) the power to repeal ; yet what do we find in practice ? unconſtitutional and illegal informations, *ex-officio* ; that is, the arbitrary will of the King's Attorney General, uſurping the office of the accuſing Jury, and the intereſted oath of a vile common informer, with the judgment of as vile a common trading or penſioned Juſtice, ſubſtituted in the room of our birth-right, and impartial trial by our country.

" Add

" Add to this, that the exorbitant expence of Judicial proceedings, the novel practice of arbitrarily and repeatedly annulling the verdicts of Juries, and the dilatory practice of the Courts, moſt openly and ſhamefully contradict the clauſe which forbids the denial, the delay, and the ſale of Juſtice.

" A man accuſed of felony (for which, by the common law of England, his life and goods are forfeited) may be bailed, on finding two ſecurities for 40l. each, but upon a charge of miſdemeanour, by words only, bail to the amount of 1000l. has been demanded.

" Upon conviction alſo for ſuch miſdemeanour, enormous fines, long and cruel impriſonments, unknown to our ancient laws, and unſanctioned by any new ſtatutes, have of late (and but of late) been too frequently, and too oppreſſively inflicted, and all this, although by this Bill of Rights it is declared that exceſſive bail ſhall not be demanded, nor cruel and unuſual puniſhments inflicted.

" If we look to Ireland, we find that acknowledged privilege of the people, to meet for the ſupport and protection of their rights and liberties, is attempted by terror to be taken away, by a late infamous act of Parliament, whilſt titles of honour—no, but of diſhonour are laviſhed, and new ſources of corruption opened, to gratify the greedy proſtitution of thoſe who are the inſtruments of this oppreſſion.

" In Scotland, the wicked hand of power has been impudently exerted, without even the wretched formality of an act of Parliament. Magiſtrates have forcibly intruded into the peaceful and lawful meetings of freemen, and by force (not only without law but againſt law) have, under colour of magiſterial office, interrupted their deliberations, and prevented their aſſociation.

" The wiſdom and good conduct of the Britiſh Convention at Edinburgh, has been ſuch as to defy their bittereſt enemies to name the law which they have broken; notwithſtanding which, their papers have been ſeized, made uſe of as evidence againſt them, and many virtuous and meritorious individuals have been, as cruelly as unjuſtly, for their virtuous actions,

diſgraced and deſtroyed by infamous and illegal ſentences of tranſportation, and theſe unjuſt and wicked judgements have been executed with a rancour and malignity never before known in this land Our reſpectable and beloved fellow citizens have been caſt, fettered, into dungeons, amongſt felons in the hulks, to which they were not ſentenced.

" Citizens,

" We all approve the ſentiments, and are daily repeating the words, for which theſe, our reſpectable and valuable brethren, are thus unjuſtly and inhumanly ſuffering. We too aſſociate in order to obtain a fair, free and full repreſentation of the people, in a houſe of real national repreſentatives; are we alſo willing to be treated as felons, for claiming this our important right, which we are determined never to forego but with our lives, and which none but thieves and traitors can wiſh to withhold from us? Conſider, it is one and the ſame corrupt and corrupting influence, which at this time domineers in Ireland, Scotland, and England. Can you believe that thoſe who ſend virtuous Iriſhmen and Scotchmen, fettered with felons, to Botany Bay, do not meditate, and will not attempt to ſeize the firſt moment to ſend us after them? Or, if we had not juſt cauſe to apprehend the ſame inhuman treatment, if, inſtead of the moſt imminent danger, we were in perfect ſafety from it, ſhould we not diſdain to enjoy any liberty or privilege whatever, in which our honeſt Iriſh and Scotch brethren did not equally, and as fully participate with us? Their cauſe, then, and ours is the ſame; and it is both our duty and our intereſt, to ſtand or fall together. The Iriſh Parliament and the Scotch judges, actuated by the ſame Engliſh influence, have brought us directly to the point. There is no further ſtep beyond that which they have taken; we are at iſſue, we muſt now chuſe at once, either Liberty or Slavery for ourſelves and our poſterity; will you wait till barracks are erected in every village, and till ſubſidized Heſſians and Hanoverians are upon us?

" You may aſk, perhaps, by what means ſhall we ſeek redreſs?

" We

" We anſwer, that men in a ſtate of civilized ſociety are bound to ſeek redreſs of the grievances from the laws, as long as any redreſs can be obtained by the laws; but our common maſter whom we ſerve, (whoſe law is a law of liberty, and whoſe ſervice is perfect freedom) has taught us not to expect to gather grapes from thorns, nor figs from thiſtles; we muſt have redreſs from our own laws, and not from the laws of our plunderers, enemies, and oppreſſors."

" There is no redreſs for a nation, circumſtanced as we are, but in a fair, free, and full repreſentation of the people."

" Reſolved,—That during the enſuing Seſſion of Parliament, the General Committee of this Society do meet daily, for the purpoſe of watching the proceedings of the Parliament, and of the adminiſtration of the Government of this country; and that, upon the firſt introduction of any bill or motion inimical to the liberties of the people, ſuch as, for landing foreign troops in Great Britain, or Ireland, for ſuſpending the Habeas Corpus Act; for proclaiming martial law; or for preventing the people from meeting in ſocieties for Conſtitutional information, or any other innovation of a ſimilar nature; that on any of theſe emergencies, the General Committee ſhall iſſue ſummonſes to the delegates of each diviſion, and alſo to the ſecretaries of the different ſocieties, affiliated and correſponding with this ſociety, forthwith to call a General Convention of the people, to be held at ſuch a place, and in ſuch a manner as ſhall be ſpecified in the ſummons, for the purpoſe of taking ſuch meaſures into their conſideration.

" Reſolved,—That the preceding addreſs and reſolution be ſigned by the chairman, and printed and publiſhed.

J. MARTIN, *Chairman.*
T. HARDY, *Secretary.*"

" At a general meeting of the London Correſponding Society, held on the green at Chalk Farm, on Monday the 14th of April 1794, J. Lovett in the chair.

(The following letters were read.)

" To the Chairman of the Society of the Friends of the People."

" Sir,—

" SIR,—At a criſis ſo important as the preſent, there needs no apology, on the part of the London Correſponding Society, for addreſſing itſelf to all other aſſociated Societies, who have in view the ſame object as themſelves.

" To the Society of the Friends of the People, arguments are not wanting to ſhew the importance and abſolute neceſſty of a full and fair repreſentation of the people of Great Britain. They have inveſtigated the ſubject for themſelves; they have expoſed to the world a ſeries of plain and indiſputable facts, which muſt excite in the mind of every man, well diſpoſed to his country, apprehenſions of alarm, for the ſecurity of the few remaining veſtiges of Liberty, from which as Britons we derive conſolation.

" Deeply impreſſed with conſiderations of this nature, the London Correſponding Society earneſtly ſolicits, at this time, the concurrence and aſſiſtance of the Society of the Friends of the People, in aſſembling as ſpeedily as the nature of the buſineſs will admit, a Convention of the Friends of Freedom, for the purpoſe of obtaining, in a legal and conſtitutional method, a full and effectual repreſentation.

" Our requeſt is not made from the impreſſions of the moment, but after the matureſt deliberation on the value and importance of the object for which we are contending, and of the difficulties we may expect from thoſe whoſe preſent intereſts render them hoſtile to the welfare of their country.

" The oppoſition of ſuch perſons is no ſmall argument for the goodneſs of our cauſe; and their late conduct, when compared with their former profeſſions, exhibits a depravity unparallelled, we truſt, in the page of hiſtory.

" Under the auſpices of apoſtate reformers, we have lately beheld ſerious and alarming encroachments on the liberties of the people.

" We have ſeen, with indignation and horror, men, legally and peaceably aſſembled, diſperſed by unconſtitutional powers, and their papers ſeized.

" We have ſeen ſome of our moſt virtuous brethren, whoſe only crime has been an imitation of Mr Pitt, and his aſſociates,

ates, ſentenced to 14 years tranſportation, without the ſanction of law, or even of precedent, of which number one was held up in the Britiſh Parliament, as convicted and condemned, before he was even put upon his trial.

" The inſidious attempts alſo to introduce foreign troops into this country, without the conſent of Parliament, and the intended bill to embody foreigners into his Majeſty's ſervice, are meaſures ſufficiently calculated to awaken our fears for the exiſtence even of the name of liberty; nor can we overlook that part of the preſent ſyſtem of corruption, which maintains, out of the public plunder, a train of ſpies, more dangerous to ſociety than ſo many aſſaſſins, whoſe avowed buſineſs is to deſtroy the friends of the country, one by one.

" Theſe are grievances which demand immediate redreſs; and when added to thoſe evils which are neceſſarily connected with every partial repreſentation of the people, call for the ſtrenuous exertions of every lover of his country.

" But we are told that the preſent is not the time for reform, and that innovation may introduce diſturbance. Are thoſe perſons to judge of the proper time to make a reform, who exiſt only by corruption? Are the people of Britain to endure every thing without repining, without ardently ſeeking a radical reform, becauſe diſturbances may happen? Have the enemies to reform told us whence theſe diſturbances are to originate? Has a ſingle overt act been committed by the friends to freedom? Have not all the riots, all the public diſturbances, all the ſeditious aſſemblies, been excited by the enemies to reform?—And do they mean to tell us, that they will ſtill find other inſtruments for their wicked deſigns,—that they have yet thoſe who will act over again the outrages that have been perpetrated in ſome parts of Britain, and attempted in others?

" If ſuch is the determination of theſe perſons, hoſtile to a fair repreſentation, let them look to the conſequences: but let them recollect, that it has happened, and may happen again, that thoſe who kindled the flames, have periſhed by them.

" The

" The Friends to Reform, are friends to peace; their principles can be promoted only by peaceable means; they know of no other method of obtaining the object they desire. But, they will not be alarmed by the threats of venal apoſtates; they will not draw back, becauſe they have ſeen ſome of their beſt friends doomed to exile. They will purſue the courſe in which they have begun, and turn neither to the right nor to the left.

" Convinced, as the London Correſponding Society is, that, as there is no power which ought, ſo there is no power which can finally withſtand the juſt and ſteady demands of a people reſolved to be free; they will, therefore, look with confidence to the determination, and, they hope, to the cooperation of the Society of the Friends of the People, in the attainment of an object which involves the deareſt intereſts of ſociety.

" Convinced, alſo, that their intentions are of the pureſt kind, they will never ſtoop to anſwer the calumnies of their enemies; but will, at all times, and in all circumſtances, endeavour, by firmneſs and perſeverance, to deſerve the countenance and approbation of the beſt friends of their country, the friends of a fair repreſentation of the people of Great Britain.——I am, Sir,—for the London Correſponding Society,

April 4. 1794.

THOMAS HARDY, *Sec.*"

COMMITTEE ROOMS,

Frith Street, April 11th 1794.

" SIR,

" Your letter of the 4th inſtant, addreſſed to Mr Sheridan, Chairman of the Friends of the People, was laid before the Society, at their meeting on Saturday laſt; and they inſtructed their Committee to thank the London Correſponding Society, for their communication, and to expreſs the alarm they feel in common with every friend of liberty, at the

the late extraordinary proceedings of Government, ſo ably detailed, and ſo juſtly reprobated by your Society.

" They aſſure you, that all the Friends of Reform, may look with confidence to the determination and co-operation of this Society, in every peaceable and Conſtitutional meaſure, which ſhall appear to them calculated to promote the object of their inſtitution; but they do not think that which is recommended in your letter, is likely to ſerve its profeſſed purpoſe. They fear it will furniſh the enemies of Reform with the means of calumniating its advocates; and ſo far from forwarding the cauſe, will deter many from countenancing that which they approve: For theſe reaſons, the Friends of the People muſt decline to ſend delegates to the Convention propoſed by the London Correſponding Society: At the ſame time, they renew their aſſurances of good will, and deſire of preſerving a proper underſtanding and cordiality among all the Friends of Parliamentary Reform, notwithſtanding any difference of opinion that may occur, as to the beſt method of accompliſhing it. In name, and by order of the Committee.

W. BRETON, *Chairman.*"

To Mr T. Hardy, Scc. to the London Correſponding Society.

The following reſolutions were then paſſed unanimouſly:

" Reſolved unanimouſly,

1ſt, " That this Society have beheld, with riſing indignation, proportioned to the enormity of the evil, the late rapid advances of deſpotiſm in Britain; the invaſion of public ſecurity; the contempt of popular opinion, and the violation of all thoſe proviſions of the Conſtitution, intended to protect the people againſt the encroachments of power and prerogative.

2d. " That our abhorrence and deteſtation have been particularly called forth, by the late arbitrary and flagitious proceedings of the Court of Juſticiary in Scotland, where all the doctrines and practices of the Star Chamber, in the times of Charles the I. have been revived and aggravated, and where

ſentences

ſentences have been pronounced, in open violation of all Law and Juſtice, which muſt ſtrike deep into the heart of every man the melancholy conviction, that Britons are no longer free.

3d, " That the whole proceedings of the late Britiſh Convention of the people at Edinburgh, are ſuch as claim our approbation and applauſe.

4th, " That the conduct of citizens Margarot and Gerald, in particular, by its ſtrict conformity with our wiſhes and inſtructions, and the ability, fairneſs, and diſintereſted patriotiſm which it ſo eminently diſplayed, has inſpired an enthuſiaſm of zeal and attachment, which no time can obliterate, and no proſecution remove; and that we will preſerve their names engraven on our hearts, till we have an opportunity to redreſs their wrongs.

5th, " That any attempt to violate thoſe yet remaining laws, which are intended for the ſecurity of Engliſhmen, againſt the tyranny of courts and miniſters, and the corruption of dependant Judges, by veſting in ſuch Judges a Legiſlative or Arbitrary power (ſuch as has lately been exerciſed by the Court of Juſticiary in Scotland) ought to be conſidered as diſſolving entirely the ſocial compact between the Engliſh nation and the Governors, and driving them to an immediate appeal to that incontrovertable maxim of eternal juſtice, that the ſafety of the people is the ſupreme, and, in caſe of neceſſity, the only law.

6th, " That the arming and diſciplining in this country, either with or without the conſent of Parliament, any bands of emigrants and foreigners, driven from their own country for their known attachment to an infamous deſpotiſm, is an outrageous attempt to overawe and intimidate the free ſpirit of Britons; to ſubjugate them to an army of mercenary cutthroats, whoſe views and intereſts muſt of neceſſity be in direct oppoſition to thoſe of the nation; and that no pretence whatever ought to induce the people to ſubmit to ſo unconſtitutional a meaſure.

7th, " That

7th, " That the unconſtitutional project of raiſing money and troops by forced benevolences, (and no benevolences collected upon requiſition from the King or his Miniſters, can ever in reality be voluntary) and the equally unjuſtifiable meaſure of arming one part of the people againſt the others brought Charles the Firſt to the block, and drove James the Second and his poſterity from the throne; and that conſequently Miniſters, in adviſing ſuch meaſures, ought to conſider whether they are not guilty of High Treaſon.

8th, " That this ſociety have beheld with conſiderable pleaſure, the conſiſtent reſpect which the Houſe of Lords diſplayed for their own conſtitutional rules and orders, on the fourth of the preſent month, upon the motion of Earl Stanhope, concerning the interference of Miniſters in the internal government of France, and that it is the firm conviction of this Society, that this circumſtance, when properly detailed, will have a conſiderable effect in convincing the country at large, of the true dignity and utility of that branch of his Majeſty's Parliament.

9th, " That the thanks of this meeting be given to Earl Stanhope, for his manly and patriotic conduct, during the preſent Seſſion of Parliament, a conduct which (unſupported as it has been in the Senate, of which he is ſo truly honourable a member) has, together with the timely interference of certain ſpirited and patriotic aſſociations, been nevertheleſs already productive of the ſalutary effect of chaſing the Heſſian and Hanoverian mercenaries from our coaſts, who, but for theſe exertions, might have been marched ere this into the very heart of the country, together with others of their countrymen, to have peopled the barracks which every where inſult the eyes of Britons.

10th, " That it is the firm conviction of this Society, that a ſteady perſeverance in the ſame bold and energetic ſentiments, which have lately been avowed by the friends of freedom, cannot fail of crowning with ultimate triumph the virtuous cauſe in which we are engaged; ſince, whatever may be the intereſted opinion of hereditary ſenators, or packed majo

rities of pretended repreſentatives, Truth and Liberty, in an age ſo enlightened as the preſent, muſt be invincible and omnipotent.

" This ſociety having addreſſed Mr Margarot their delegate, an addreſs to Joſeph Gerarld was read as follows, and carried unanimouſly :—

" To Joſeph Gerald, a priſoner, ſentenced by the High Court of Juſticiary of Scotland, to tranſportation beyond the ſeas for 14 years.

" We behold in you, our beloved and reſpected friend and fellow citizen, a martyr to the glorious cauſe of equal repreſentation ; and we cannot permit you to leave this degraded country, without expreſſing the infinite obligations the people at large, and we in particular owe to you, for your very ſpirited exertions in that cauſe upon every occaſion ; but upon none more conſpicuouſly than during the ſitting of the Britiſh Convention of the people at Edinburgh, and the conſequent proceeding, (we will not call it a trial) at the bar of the Court of Juſticiary.

" We know not what moſt deſerves our admiration, the ſplendid talents with which you are ſo eminently diſtinguiſhed, the exalted virtues by which they have been directed, the perſeverence and undaunted firmneſs which you ſo nobly diſplayed, in reſiſting the wrongs of your inſulted and oppreſſed country, or your preſent manly and philoſophical ſuffering, under an arbitrary, and, till of late, unprecedented ſentence,— a ſentence, one of the moſt vindictive and cruel that has been pronounced, ſince the days of that moſt infamous and ever to be deteſted Court of Star Chamber, the enormous tyranny of which coſt the firſt Charles his head.

" To you, and to your aſſociates, we feel ourſelves moſt deeply indebted. For us it is, that you are ſuffering the ſentence of tranſportation with felons, the vileſt outcaſts of ſociety ; for us it is, that you are condemned to the inhoſpitable ſhores of New Holland, where, however, we doubt not you will experience conſiderable allevation, by the remembrance of

that

that virtuous conduct for which it is impoſed on you, and by the ſincere regard and eſteem of your fellow citizens!

" The equal laws of this country have for ages paſt been the boaſt of its inhabitants; but whither are they now fled? We are animated by the ſame ſentiments, are daily repeating the ſame words, and committing the ſame actions, for which you are thus infamouſly ſentenced; and we will repeat and commit them, until we have obtained redreſs; yet we are unpuniſhed; either, therefore, the law is unjuſt towards you, in inflicting puniſhment on the exertions of virtue and talents, or it ought not to deprive us of our ſhare in the glory of the martyrdom.

" We again therefore pledge ourſelves to you, and to our country, never to ceaſe demanding our rights from thoſe who have uſurped them, until, having obtained an equal repreſentation of the people, we ſhall be enabled to hail you once more with triumph to your native country. We wiſh you health and happineſs, and be aſſured, we never, never, ſhall forget your name, your virtues, nor your great example.

" The London Correſponding Society.

The 14th. *April* 1794. JOHN LOVETT, *Chairman.*"

THOMAS HARDY, *Secretary.*"

" It was alſo unanimouſly reſolved.

" That the Committee of correſpondence be directed to convey the approbation of this ſociety, 1ſt, to Archibald Hamilton Rowan, priſoner in the Newgate of the city of Dublin, for his unſhaken atttachment to the people, and for his ſpirited aſſertion of their rights.

2. " To John Philpot Curran, for his admirable and energetic defence of A. H. Rowan, and the principles of Liberty, as well as for his patriotic conduct in Parliament.

3. " To the ſociety of united Iriſhmen in Dublin, and to exhort them to perſevere in their exertions to obtain juſtice for the people of Ireland.

4. " To Skirving, Palmer, and Muir, ſuffering the ſame iniquitous ſentences, and in the ſame cauſe with our delegates.

5 " To

5. " To John Clark, and Alexander Reid, for their ſo readily and diſintereſtedly giving bail for our delegates, inſtigated thereto ſolely by their attachment to Liberty, uninfluenced by any perſonal conſideration.

6. " To Adam Gillies, Macolm Laing, and James Gibſon, for their able aſſiſtance given to Joſeph Gerald, at the bar of the High Court of Juſticiary at Edinburgh.

7. " To felicitate Thomas Walker of Mancheſter, and the people at large, on the event of his, as well as ſeveral other late trials, and on the developement of the infamy of a ſyſtem of ſpies and informers.

8. " To Sir Joſeph Mawbey, for his manly conduct at the late ſurreptitious meeting held at Epſom in Surrey.

" It was alſo unanimouſly reſolved,

" That 200,000 copies of the proceedings and reſolutions of this meeting be printed and publiſhed.

J. LOVETT, *Chairman.*
T. HARDY, *Secretary.*

" Reſolved,

" That the thanks of this meeting be given to the chairman for his manly and impartial conduct this day."

T. HARDY, *Secretary.*

Lord Advocate.—" This is a printed letter, ſworn to be found in Hardy's poſſeſſion, ſigned T. Hardy, ſecretary to the Correſponding Society.

" CITIZENS,

" The critical moment is arrived, and Britons muſt either aſſert with zeal and firmneſs their claims to liberty, or yield, without reſiſtance, to the chains that miniſterial uſurpation is forging for them :—will you co-operate with us in the only peaceable meaſure that now preſents itſelf, with any proſpect of ſucceſs ?—we need not intimate to you that, notwithſtanding the unparalleled audacity of a corrupt and over-bearing faction, which at preſent tramples on the rights and liberties of the people, our meetings cannot in England be interrupted, without the previous adoption of a Convention Bill ;—a meaſure it is our duty to anticipate, that the ties of union

union may be more firmly drawn, and the ſentiments and views of the different ſocieties throughout the nation be compared, while it is yet in our power, ſo as to guide and direct the future operations of the Friends of Freedom. Rouſe, then, to one exertion more, and let us ſhew our conſciouſneſs of this important truth,—If we are to be beaten down with threats, proſecutions, and illegal ſentences, we are unworthy, we are incapable of liberty; we muſt, however, be expeditious; Heſſians and Auſtrians are already among us; and if we tamely ſubmit, a cloud of theſe armed barbarians may ſhortly be poured in upon us; let us form then another Britiſh Convention. We have a central ſituation in our view, which we believe would be moſt convenient for the whole iſland, but which we forbear to mention (entreating your confidence in this particular) till we have the anſwer of the ſocieties with which we are in correſpondence; let us have your anſwer, then, by the 20th at fartheſt, earlier if poſſible; whether you approve of the meaſure, and how many delegates you can ſend, with the number alſo if poſſible of your ſocieties."

"We remain yours, in civic affection,
"The London Correſponding Society."
T. HARDY, *Secretary.*

"For the management of this buſineſs we have appointed a Secret Committee; you will judge how far it is neceſſary for you to do the ſame."

GEORGE ROSS *Sworn.*

Lord Advocate—*Q.* Mr Roſs you were in the Gazetteer office?

A. Yes.

Q. Do you know of any ſociety or club meeting in your houſe, in January, February, and March laſt, after the diſperſion of the Britiſh Convention?

A. I believe there was a ſociety of people met in my houſe.

Q. Of what ſort or deſcription?

A.

A. I have heard it called a Committee of Union, or ſomething of that kind.

Q. Who are the perſons that appeared to you to compoſe that committee,—the perſons who came there?

A. There was a Mr Watt, a Mr Stoke, ſometimes.

Q. Who was Stoke?

A. I believe he was a ſtudent. There was a Mr Downie.

Q. Was that the man at the bar?

A. Yes,—and Mr Bonthron,—I do'nt know the exact number that met, they met ſeveral times.

Q. Was there ever a larger number met than theſe four?

A. I believe there was a larger number; but, as I ſaid before, if there were two committees, the ſmaller committee met with the larger, I ſuppoſe.

Q. Then am I to underſtand there were two committees?

A. I cannot be certain of that, becauſe I did not belong to any myſelf.

Q. Did you ever receive any printed letters from a Society calling themſelves the London Correſponding Society,—Did you ever receive from the London Correſponding Society any written or printed letters?

A. I never did.

Q. Did you ever receive from any perſon whatever, letters of that kind?

A. To the beſt of my recollection I received one from Mr Stoke.

Q. That you mentioned before?

A. Yes.

Q. Do you know the import or ſubject of it?

A. From the import of thoſe letters, I ſaw the purpoſe was to ſend them to ſocieties in the country. I accordingly did ſo.

Q. Look at that,—is that one?

A. That is one of them.

Q. Is it your hand writing?

A. I think it is.

Q. Look at the addreſs?

A. As far as I know that is one that I ſent.

Q. Do you ſee the poſt mark upon it?

A. I ſee threepence here, the price of poſtage.

Q. Did you ſend any to Perth?

A. That is the one I ſent to Perth.

Q. Any other towns?

A. To four towns; Perth, Paiſley, Strathaven, and another place.

Lord Advocate.—This is addreſſed to Mr Walter Miller, Perth; the words are thoſe in his hand: "ſhew this to your friends, and ſend an anſwer to George Roſs, Liberty Court, Edinburgh; nothing but ready money ſubſcriptions received."

Witneſs.—The poſt mark is March 6th or 8th.

Q. It was about that time you received them from Stoke?

A. To the beſt of my knowledge I received them from Stoke; I don't particularly remember what time.

Q. Where did you receive them from him?

A. I ſuppoſe in my own houſe; I cannot be certain.

Q. Do you remember what time?

A. I don't remember the time, but it was from him I received them.

Mr Cullen.—I have no queſtions to aſk this man, unleſs the priſoner has.

(The *Priſoner* ſaid he had no queſtion to aſk.)

Witneſs (to the Lord Advocate) Am I at liberty to go away after this?

Lord Advocate.—Not at preſent—I don't mean to keep you a moment longer here than is abſolutely neceſſary.

WILLIAM M'CUBBIN *Sworn.*

Mr Anſtruther.—*Q.* What are you?

A. A writer, Sir.

Q. Were you one of the friends of the people?

A. Yes, I was.

Q. Do you know any thing of a committee, called the Committee of Union?

A. I know very little about it—it exiſted ſome time before I was a member of it.

Q. Were you a member of it?

A. Yes, I was; I was there once, or twice, I believe.

Q. Upon what occaſion were you elected?

A. The occaſion was,—a young man of the name of Gunnell, who happened to be a member of it at the time of the diſturbances at the Theatre, as he was bound over to keep the peace, he thought it improper for him to do that buſineſs, it was put upon me. I ſaid I thought it would not ſuit my convenience, but I at laſt accepted it.

Q. Upon this perſon being bound over to keep the peace, you at laſt accepted it?

A. Yes, Sir.

Q. What was that committee to do?

A. I never underſtood what it was to do, but I underſtood it to be an union of all the ſocieties in Edinburgh.

Q. What was it to do?

A. I underſtand it was for taking meaſures for calling another Convention, to co-operate with the Committee of Collectors for forwarding the money.

Q. Who were members?

A. There were a great many.

Q. Do you remember any of them? Was the priſoner a member of it?

A. Yes, I believe he was.

Q. You ſaid, you underſtood it was for taking meaſures for calling another Convention; what Convention was it to be?

A. I underſtood milar to the ſta.

Q. What do you mean by the laſt?

A. The Britiſh Convention.

Q. You ſaid ſomething about the Committee of Collectors; what is that?

A. I underſtood the Committee of Collectors to be for the purpoſe of collecting money in the firſt place, to pay what debts were due, and, in the next place, to collect money for that

that purpoſe, and thoſe ſuffering for peculiar opinions; and, in the next place, to collect money to ſupport the delegates in that new Convention; that is what I underſtood.

Q. Do you know where the Convention was to meet?

A. No, I do not.

Q. Was it to be in Scotland or England?

A. I ſuppoſe in England; I did not know.

Q. Were not the delegates to do ſomething elſe, beſides receiving money?

A. It was to gather ſentiments; and I underſtand ſeveral perſons differed in opinion about the Reform; ſome wiſhed for univerſal ſuffrage, and annual Parliaments; others thought it a violent meaſure; and it was to conſider about that object, and how it could be obtained.

Lord Advocate.—*Q.* Were you a collector?

A. Yes my Lord, I was.

Q. Now, were you, or the other collectors, to go round all the Friends of the People to collect their opinions, or was there a particular diſtrict aſſigned?

A. There was a particular diſtrict aſſigned to them, but it was not underſtood they were confined to it; it was according to the place where they lived.

Q. Was it by dividing the diſtricts?

A. It was to be the New Town, the ſouth ſide of the town, the Lawn Market, and the Canongate.

Q. To whom was the money to be paid?

A. I don't know, it was to be accounted for in the committee, and they were to appoint ſome perſons.

Q. Who were to appoint them?

A. The collectors; and I underſtood they were to be reſponſible for money paid.

Q. Who were they to pay it over to?

A. It was not mentioned.

Q. Who was treaſurer?

A. I underſtood Mr Downie was treaſurer.

Q. Was he treaſurer to the committee, or collectors?

A. He was treaſurer to the whole.

Q. Do you know a man they call John Fairley?

A. Yes.

Q. Was he a collector?

A. Yes he was.

Q. Was he diſtinguiſhed from the other collectors by any appointment?

A. I came in one night, and they were met, and I went out and left them; they wiſhed me much to be in; when I came into the room, they told me they had been doing ſome buſineſs: that John Fairley had been appointed a Convener; I was a little aſtoniſhed; I ſaid nothing, and they were to give in printed papers for them to collect money.

A. Why were you aſtoniſhed?

A. I was a little aſtoniſhed upon his being appointed a permanent convener.

Q. Was he to be changed every week, or month?

A. I know nothing of that.

Q. Why did you uſe the word permanent?

A. It was only that he was to convene us, and ſit always.

Q. Sit always,—for what?

A. As convener.

Q. Were you at the Britiſh Convention the night it was diſperſed?

A. Yes, I was.

Q. Who diſperſed it?

A. It was the Lord Provoſt.

Q. What did the Lord Provoſt do?

A. He aſked if this was the Britiſh Convention, and the Preſident ſaid it was.

Q. Who was Preſident?

A. I believe it was Samuel Paterſon.

Q. Tell us what the Provoſt ſaid?

A. The Provoſt ſaid, he could not allow any ſuch meeting to be held, and he deſired the Preſident to leave the chair; he ſaid he could not properly leave the chair, without the permiſſion of the Convention; but as he had got leave before that to leave the chair, he was juſt going, and he would go; and a

call was for ſome other perſon to take the chair, and Mr B. wn of Sheffield took the chair.

Lord Advocate.—Recollect and tell Brown's ſituation; what did Brown ſay to the Provoſt, or the Provoſt to him?

A. Brown ſaid, as he was appointed by the unanimous voice of the Convention, he could not leave it without leave of the Convention; the Lord Provoſt ſaid, he muſt leave the chair; he had been deficient, he ſaid, in his duty, or he would have diſperſed them before. The Lord Provoſt ſaid the proceedings were ſeditious or inflammatory; and Brown ſaid, the publication of their proceedings tended to ſhow that their meetings were of a conſtitutional nature, and they kept open doors to every perſon that choſe to come; the Provoſt ſaid he muſt leave the chair; he ſaid he would not do it, without ſuperior force. Skirving obſerved, he could not leave the chair, and they would not allow themſelves to diſperſe without force; it was agreed they ſhould call in their force, and we ſhould file off to the other ſide of the Hall; but the conſtable came in, and the Lord Provoſt pulled Brown from the chair. Some perſon moved, as they had been diſperſed there, they ſhould go to the Canongate Maſon Lodge.

Q. Did you go there!

A. Yes.

Q. What paſſed there?

A. A vote paſſed there, that we were permanent.

Q. How long did you ſit at the Canongate, after you voted that you were permanent?

A. Not long.

Q. How came you to ſeparate then?

A. We thought it unneceſſary to do any thing more that night.

Q. Did you join the Convention again after that?

A. No, it was many months after that.

Q. Were you there the next night in the ſuburbs, at a wright's ſhop there?

A. Yes, I was.

Q. What happened there?

A. The Sheriff came in, and diſperſed them.

Q. In ſhort, the ſame thing took place that night, as took place the day before?

A. Yes.

Q. Was any declaration made there that you had voted yourſelves permanent the night before, in the Canongate?

A. I cannot recollect.

Mr Anſtruther.—*Q.* How long were you one of the collectors?

A. Eight days or a fortnight.

Q. Where did you meet when Fairley was preſident.

A. At George Roſs's.

Q. Where did you meet the next meeting?

A. The next meeting was propoſed in Philip's houſe.

Q. Philips was a collector, too, was not he?

A. Yes.

Q. Did that meeting take place?

A. No.

Q. Why did not that meeting take place?

A. It was on account of Mr Watt and Mr Downie being apprehended; it was thought the people would be afraid to come, on the ſeizure of ſome of the books of the Society.

Croſs Examination.

Mr Clerk.—*Q.* You were a member of the Union Committee?

A. Yes.

Q. You ſay Downie was treaſurer of that committee?

A. I heard he was treaſurer for the whole of the Friends of the People throughout Edinburgh; I could not ſay for that committee.

Q. Do you know any thing about his appointment?

A. No, it is only report, I have only been told it by ſome perſons.

Q. You don't know it of your own knowledge?

A. No.

Q. You have heard it only?

A. Yes.

Q. You were appointed collector?

A. Yes.

Q. Explain the nature of collector, as you underſtood it?

A. As I underſtood it, that night there was a letter given in that Mr had reſigned his place, and deſired ſome other perſon would take it, and it was put upon me, and with ſome heſitation I agreed to it.

Q. What did you underſtand the duties of your office to be?

A. I mentioned that it was to pay the debts that were due by the Convention.

Q. You were to collect money for that purpoſe?

A. To collect money for that purpoſe.

Q. Did you collect any money?

A. None.

Q. Had you any acceſs to know the ſum of money collected for that purpoſe?

A. No, I know nothing about it.

Priſoner.—Q. Did you hear any thing about a library?

A I cannot recollect that, but I think I heard ſomething about it mentioned.

Mr Clerk.—Q. About what?

A. About a library, about political publications.

WILLIAM BINNING *Sworn.*

Mr Anſtruther.—Q. You were a member of the Water of Leith Society, I believe, Mr Binning?

A. Yes, Sir.

Q. Where did they meet at the Water of Leith?

A. I was not at the houſe, but ſometimes I belonged to a Friendly Society.

Q. How did the Water of Leith Society call themſelves?

A. A Society of the Friends of the People.

Q. Did they meet any time in December or January laſt?

A. I could not charge my memory, I dare ſay they might meet ſome time.

Q. Did they meet ſoon after the Britiſh Convention?

A. No—about 3 weeks or a month.

Q. You were ſecretary?

A Yes, or clerk rather.

Q. With whom did you correſpond?

A. We did not correſpond with any Society, unleſs it was by ſundry delegates, what they call a Committee of Union.

Q. What was that Committee of Union?

A. It was for carrying on the buſineſs of Reform.

Q. How many delegates did you ſend to that meeting?

A. I think there were 2 or 3.

Q. Who are they?

A One M'Ewan.

Q. What is M'Ewan's firſt name?

A. Arthur; Robert Orrock.

Q. What is Orrock?

A. A ſmith.

Q. What is M'Ewan?

A. A weaver.

Q. Who is the other?

A. William Ferguſon.

Q. What was the reaſon of your chooſing theſe delegates?

A. To carry on the matter of Reform, by way of petition to Parliament.

Q. What was your reaſon for chuſing them at firſt?

A. It was for correſponding.

Q. Did it come into your own head, or did any body bid you?

A. No, we choſe them ſo that we could correſpond with a ſociety to obtain a Reform in Parliament by petition.

Q. That was the way of doing it, by petition?

A. Yes.

Q. Who firſt propoſed to appoint theſe delegates?

A. Nobody in particular, we thought a Reform was neceſſary.

Q. Was there no letter came to you about it?

A. No.

Q. Who propoſed it in the Committee firſt?

A. I did not remember.

Q. Did you ever hear of ſuch a thing as a collector; what was the collector to do?

A. He was to take the ſenſe of the Friends of the People and if the people he ſpoke to thought proper to give any money in ſupport of the cauſe, or defray the expences of ſuch as ſuffered in ſupport of that cauſe, ſuch as Skirving, to gather money.

Q. Did you gather any money in your Society?

A. Six ſhillings.

Q. Nothing more?

A. About a penny a night.

Q. Did you give any thing to M'Ewan?

A. About 15s.

Q. What was he to do with it?

A. He was to give it to the delegates that were to be choſen to a Convention ſome where I did not know.

Q. You were to diſtribute it to Mrs Skirving, or perſons that ſtood in need of it?

A. Yes Sir.

Q. Was it as he liked it, or a Committee of Union would like it?

A. It was the Committee of Union, I ſuppoſe, but we gave it to him to carry it there.

Q. He was to carry it to the Committee of Union?

A. Yes.

Q. And he was to pay it to the Treaſurer of the Committee of Union?

A. Yes.

Q. Do you know who was the treaſurer?

A. That was one of the name of Downie.

Q. Do you know him?

A. Yes.

Q. Did you hear what he was deſcribed to be, what his trade was?

A. A goldſmith, I think.

Q. Now theſe collectors, when were they choſen firſt?

A. Some time in March, I fancy: I could not really charge my memory; but I believe it was ſome time in March, I am not certain as to the time.

Q. Are you quite ſure there was never any letter or meſſage ſent to you about chuſing theſe delegates?

A. I am not certain, I am ſure I cannot recollect.

Q. Did you ever ſee any printed papers, called fundamental principles?

A. I am not ſure.

Q. Did you ever ſee that paper?

A. It was fundamental principles.

Q. Where did you ſee it?

A. It came to the Society one night.

Q. You ſaw ſuch a paper in the Society, but do'nt know where it came from?

A. No.

Q. Look at that, and ſee if you know where that came from?

A. I think I ſaw this in Arthur M'Ewan's, I am not certain.

No Croſs Examination.

(This was a letter from the Committee of Ways and Means that he looked at, but it not being yet proved, it was not read.)

ARTHUR M'EWAN *Sworn.*

Lord Advocate,—*Q.* Where do you live?

A. At the Water of Leith.

Q. Were there any ſocieties there?

A. Yes.

Q. Were you a member of any ſociety there?

A. Yes.

Q. What was the title of that ſociety?

A. It was called the ſociety of the Friends of the People.

Q. Did that ſociety ſend any delegates to the Britiſh Convention?

A. Yes.

Q. Were you a member yourſelf?

A. Yes.

Q. Did that ſociety continue to meet after the Britiſh Convention was diſperſed?

A. Yes, it met after it was diſperſed.

Q. Was there any other committee choſen after that time to which your ſociety ſent delegates?

A. Yes.

Q. What was it ſtiled?

A. It was ſtiled, in the printed paper, the Committee of Union.

Q. Were you a member of that Committee?

A. Yes, the ſociety appointed me to attend that Committee as one.

Q. Who were along with you?

A. I think Mr Orrock and William Ferguſon.

Q. What is Orrock?

A. He is a black-ſmith.

Q. He lives at the water of Leith with you?

A. At the Dean.

Q. Did you ever attend meetings of the Committee?

A. Yes.

Q. Where did it meet?

A. At George Roſs's.

Q. At any other houſe?

A. Not the Committee of Union.

Q. Was there any other Committee, of which you were a member, choſen from that?

A. There was a ſub-committee.

Q. Who were members?

A. Mr Watt, Mr Burke, Mr Downie, Mr Aitchiſon, Mr Stoke, Mr Bonthorne, and myſelf.

Q. Seven in whole?

A. Seven.

Q. Had that Committee any other title than the ſub-committee?

A. It had no name to my knowledge, but in the printed paper it was called the Committee of Ways and Means.

Q. Be ſo good as to inform us what the chief object of it was?

A. A fortnight after I belonged to the Committee, there was a letter read by a big man; he ſaid he had received it from Mr Skirving; the contents were, that the Friends of the People were in his debt, and he hoped they would pay it up, and do every thing they could for his family, as he was going to leave the country;—to aſſiſt to pay that debt, and aſſiſt Mr Skirving, if he ſtood in need.

Q. Were you there any other nights?

A. Yes, other nights; I found it was for other purpoſes, by a paper that Watt read.

Q. Explain what purpoſes?

A. It appeared to me it would throw the country all into confuſion, and ſpill the blood of our fellow-creatures, from the paper he read: the contents run thus: that parties were to ſeize the Lord Juſtice Clerk, and the reſt of the Lords of the Seſſions, and the Lord Provoſt: and parties were to be ſtationed at the Luckenbooths, and the head of the Weſt Bow, and parties were to make a fire at the Exciſe Office, to draw the military from the Caſtle; and, when the ſoldiers came by the top of the Bow towards the Luckenbooths, they were to incloſe them; and parties were to ſeize the banking houſes in town, and appoint Commiſſioners to go and demand the caſh from them—that was the ſubſtance of the paper, as far as I can recollect.

Q. Who were preſent at that meeting?

A. Stoke, Watt, Downie, Bonthorne and I.

Q. Was it a ſtated meeting—a uſual meeting?

A. Yes.

Q. What do you mean by *parties?* parties of whom?

A. I cannot ſay by whom it was to be.

Q. Whom did you underſtand by the word *parties?*

A. I ſuppoſe Mr Watt drew it up, and he ſuppoſed the country was to riſe to do ſuch a thing; I could not underſtand it any other way.

Q. Were the people of this committee, if they approved of that paper, to have ſome command?

A. I knew not a man that was to do this.

Q. Not a man?

A. Not one, man or men.

Q. You miſtake my queſtion; you told us it was propoſed that parties ſhould be put at different places, the Luckenbooths and Bow, to ſecure the ſoldiers when the fire appeared at the Exciſe Office; who did you underſtand the parties to be?

A. I could underſtand it no other ways than the *Friends of the People.*

Q. Now, what was done by that Committee upon this plan being read by Watt?

A. I objected to the plan; I ſaid, I by no means would agree to any thing that broke the peace, or ſhed the blood of my countrymen, and Mr Bonthorn ſeconded me, and ſaid, "no, don't do no ſuch thing."

Q. Did Downie ſay any thing?

A. Not that I remember.

Q. Did Watt?

A. No.

Q. Did Watt ever read any other paper relative to that ſubject, or ſhew you any other paper?

A. He read another paper another night

Q. Was that a Committee night?

A. Yes.

Q. Who were preſent?

A. It runs in my head that Mr Downie was preſent, but I cannot be poſitive.

Q. Was it a committee night?

A. It was.

Q. Was Stock preſent?

A. No.

Q. Was Bonthorne?

A. No.

Q. Aitchiſon?

A. No.

Q. Was Burke?

A. No.

Lord Advocate.—Then Downie muſt have been preſent?

A. I think he was preſent, but I cannot be certain of it.

Q. Now, what was the import of that paper which at the ſecond meeting of the Committee Watt read to you?

A. The purport of that letter, as far as I can recollect, was this—it was a copy of a proclamation to all farmers and dealers in corn and meal, and hay, not to remove the ſame from their reſpective habitations, under pain of death.

Q. Any thing elſe?

A. Alſo, for gentlemen of the country not to remove from their ſeveral habitations, above the diſtance of 3 miles, under pain of death;—there was likewiſe an addreſs to his preſent Majeſty to diſmiſs his Miniſters, and put an end to the war, or elſe he muſt expect, or abide the conſequences.

Q. Did any body ſay any thing upon the ſubject of that paper?

A. I ſaid it was not a paper agreeable to the plan of Reform, and I hoped I ſhould never ſee the day when ſuch a thing ſhould take place.

Q. Do you recollect that Downie ſaid any thing?

A. I am at a loſs to know. I ſaid before I do not know it is a fact that Downie was there.

Mr Anſtruther.—*Q.* You collected ſome money at the Water of Leith Society?

A. Yes, I got 15s. from the Secretary.

Q. Who was it?

A Mr Binning, he was Secretary to the Society of the Water of Leith.

Q. Who did you give it to?

A. To Mr Downie.

Q. Why did you give it to him?

A. I was informed he was appointed treaſurer; for that reaſon I accounted to him.

Q. Did you pay it to him as treaſurer?

A. Yes, I did.

Q. Do you know a lad of the name of Fairley?

A. Yes, I have ſeen him, I am not well acquainted with him.

Q. Is that the Downie that was the treaſurer? (pointing to the priſoner.)

LORD PRESIDENT.—Is he the perſon that was preſent when the firſt paper was read?

A. Yes.

Mr Anſtruther.—Do you remember ſeeing Downie at George Roſs's?

A. Yes.

Q. Was that a committee night?

A. Yes.

Q. Who was there?

A. Mr Downie, Mr Watt, and me; I cannot remember whether any more were.

Q. Where did Fairley come from when he came there?

A. He came from the weſt country.

Q. Who ſent him to the weſt country?

A. I do not know—I cannot ſay who ſent him.

Q. About what time was this?

A. I cannot poſitively remember; I think it might be towards the latter end of April.

BARON NORTON.—Can you tell how long it was after this plan was read?

A. Some little time after—I cannot poſitively ſay.

Mr Anſtruther.—*Q.* Did you ſee any body pay Fairley?

A. No, I did not,—I ſaw Fairley lay down 15s. upon the table, and he was ordered to take it up again.

Q. Who ordered it?

A. Mr Downie.

Q. Why?

A. He laid down 15s. upon the table, and ſaid he had it for a parcel of pamphlets, and he left the 15s. and Mr Downie bid him take it up again.

Q. Did he bid him take it to himſelf? what was he to take it up for? was it for his trouble?

A. I cannot ſay poſitively, but I took it to be for his trouble.

Q. Was this at a meeting of the Committee?

A. Indeed was it.

Q. Did Fairley ſay any thing about Paiſley?

A. Yes, he did.

Q. What did he ſay?

A. He ſaid it was in a ſtate of great readineſs.

Q. What did he mean by that?

A. I do not know what his orders were, I could put no conſtruction upon it.

Q. You put ſome conſtruction upon it in your own mind?

A. I thought it ſtill carrying on the cauſe.

Q. Did you ever hear any body talk about arming?

A. No.

Q. About the Friends of the People arming?

A. No.

Mr Solicitor General.—*Q.* Mr M'Ewan, did you ever hear Watt mention any thing about a commiſſion from Perth to procure arms?

A. No, I never heard it, but heard him ſay to Orrock, 4000 were wanted.

Q. Was Downie preſent when Watt ſaid he had a commiſſion from Perth?

A. I did not hear Watt ſay he had a commiſſion, but Watt ſaid he had 4000 to ſend there.

Q. Was Downie preſent?

A. No.

Mr Anſtruther.—*Q.* Did you ſee any of theſe? (pointing to the pike heads upon the table.)

A. I ſaw one at Mr Watt's. I was going upon ſome private buſineſs.

Q. Do you recollect when Mr Watt was taken up?

A. I cannot positively say.

Q. Did you ever see Mr Downie after that?

A. Yes.

Q. Where did you see him?

A. He called upon me at my own house.

Q. Tell me what passed between you and Downie?

A. I had been before the Sheriff, and Mr Downie called up to ask if I had been examined; I said, yes; he desired to know what questions I was asked; I said very few—that was all. I only asked what was done with the money; the answer was, he gave part to Brown, and part to Martin Todd for printing.

Q. Did he bid you tell that to any body?

A. No, he did not bid me tell any thing of the kind.

Q. Did he bid you not tell it?

A. As far as I can recollect what he said was, if he was called upon, he would say he did not know me, and if I was called upon, I was to say I did not know him; I said, by no means, I would do no such thing.

Q. Did he say any thing more?

A. I remember no further conversation taking place.

Q. See if you can recollect what he said about Brown and Martin Todd?

A. He said he had given money to Martin Todd, Smith, and Taylor and Brown, for printing of papers: I said that was not the meaning.

Q. Did you know before that, that Brown had got any money?

A. No, it was some days before that he had called up upon this Robert Orrock, at the Dean, and the two went into my house together, and I happened to be at a society meeting that night; not thinking of any person there, I went in, and heard Brown say he was employed by Mr Watt, and paid by Mr Downie; I inquired no further into the conversation, I was just out of the door.

Q. Did you ever hear any thing about another Convention?

A. No.

Q. Now recollect yourſelf, whether you ever heard of any other Convention that was to meet?

A. I do not remember any other Convention that was to meet.

Q. But of the water of Leith ſociety?

A. No, Sir.

Mr Solicitor General.—*Q.* Did you ever hear Downie ſay any thing of a letter he received, or Watt received from Perth?

A. All I remember was, Downie ſaying he had received a very ſpirited letter from Perth.

Q. You entered into no farther explanation about it?

A. No.

Q. Did Downie or Watt mention any thing more about it?

A. Downie read the letter that came from Perth.

Q. What was the letter about?

A. It was about Mr Miller in Perth.

Q. What was it.

A. They had ſome meeting, and after the meeting he was carried before the Magiſtrate and examined, whether he had made a practice to ſell them to the Friends of the People; he ſaid he would ſell as many as he pleaſed.

Q. Was it ſoon after this you heard Downie ſay he had received a very ſpirited letter from Perth?

A. I cannot poſitively ſay.

Mr Fletcher.—*Q.* You ſaid Watt read a paper?

A. Yes.

Q. Did Downie receive notice ſuch a paper was to be read?

A. I got none, and never ſaw it after that night.

Q. Does it conſiſt with your knowledge any other members got it?

A. I cannot ſay.

Q. You never had any converſation with Mr Downie upon the ſubject?

A. Never.

Jury.—*Q.* You ſaid, before you had been informed, Brown

and Orrock were to be employed by Watt, what were they to do?

A. Brown and Orrock were employed by Watt.

Q. What to do?

A. To make ſome pikes and things of that kind.

Mr Anſtruther.—*Q.* When Watt read the proclamation, it was not at the ſame time he read the plan, I believe?

A. No.

Mr Fletcher.—*Q.* Who took the chief lead in the Committee of Ways and Means?

A. As far as I can recollect, I never ſaw a man put pen to paper there but Mr Watt and Mr Stoke.

Mr Clerk.—*Q.* Had you any converſation with Mr Watt or Mr Stoke about it afterwards?

A. No.

Q. Did you never mention a ſyllable of it?

A. No Sir.

Mr Fletcher.—*Q.* Now, do you believe in your own mind, that Downie ever meant to carry into execution the project in Watt's paper?

A. He never ſaid a word to ſuch a purport, as far as I remember.

Priſoner.—*Q.* (by Mr Clerk) Whether after leaving the Committee that night when Watt read his paper to ſeize the Caſtle and Judges and ſo on, the priſoner ſaid any thing in going homewards along with Bonthorne?

A. I cannot remember as to that, but he ſaid nothing at the time it was read.

Q. It was after leaving the Committee in going home with you and Bonthorne?

A. I cannot ſay, I cannot give an anſwer to it.

Q. Did you go home with him?

A. I am not certain.

Q. The queſtion is, whether you went home with him that night, and what converſation paſſed?

A. I cannot recollect.

Jury.—Q. It does not appear whether Downie and Watt employed Orrock, or Watt only ?

Q. Whether Downie or Watt employed Orrock, or whether it was Watt only ?

A. Watt only.

Lord Preſident.—Q. Did you ſay Downie paid him ?

A. It was Browne I heard ſay he was employed by Watt, and paid by Downie.

Q. That was by a reſolution of the Committee ?

A. By no means, it muſt be a fabrication of his own, as far as I know.

Mr Clerk.—Q. Did he ſeem to have a ſerious wiſh this plan ſhould be put in execution ?

A. As to his wiſh I can ſay nothing about that ; as far as I could recollect, he ſeemed to interline ſome part of the paper.

Q. Did he aſk the Committee's opinion upon it ?

A. No ; I thought he had done, and I ſpoke thoſe words, I did not approve of it, and Bonthorne backed me. As ſoon as I thought it was done, I ſaid I would not, by any means, do any thing to diſturb the peace, or ſhed the blood of my countrymen ; and Bonthorne ſaid, by no means.

Q. This never came on again ?

A. No.

Q. It never was reſumed again ?

A. No.

Q. At any time after it was read did you underſtand it an object the committee was purſuing ?

A. No ; I never underſtood it, for Mr Bonthorne oppoſed it negatively, and ſaid he would agree to no ſuch thing.

Baron Norton.—I thought you ſaid that you ſuppoſed that Fairley, in what he had been doing in the weſt country, had been doing ſomething relative to this plan ?

A. I wiſhed to give no opinion ; if I was to give an opinion, I would look upon it in that light, but I know nothing of his reaſon for going there.

Mr Clerk.—Q. Then you only ſpeak of your own ſuſpicion?

A. I would not wiſh to give my opinion.

MR BONTHORNE, *Sworn.*

Lord Advocate.—Q. Where did you commonly reſide before you were taken into cuſtody?

A. In the new town of Edinburgh.

Q. Before Whitſuntide, where?

A. In Broughton.

Q. Do you know of the Britiſh Convention being diſperſed?

A. Yes, my Lord.

Q. Were you a member of any ſociety at Broughton or the New Town?

A. At Broughton.

Q. Did your Society ſend delegates to that Convention?

A. Yes.

Q. After that Convention was diſperſed, did your Society continue to meet at all?

A. I believe it did for ſome ſhort time.

Q. Do you know that it did?

A. Yes, my Lord.

Q. Was there any other Committee, or Convention, to which your Society ſent delegates after that?

A. Yes, my Lord.

Q. What was the name of that meeting to which your Society ſent delegates?

A. The Committee of Union.

Q. Where did that Committee meet?

A. At George Roſs's.

Q. That is the Gazetteer Office?

A. Yes.

Q. Do you know it to be the Gazetteer Office?

A. It is George Roſs's houſe; it was ſaid to be the Ga-

zetteer Office—the Gazetteer Office is a ſeparate place from the houſe.

Q. Where is it?

A. South Bridge.

Q. Do you know a place called Liberty Court?

A. I know of no ſuch place.

Q. Did you ever attend any of the meetings of that Committee?

A. Yes.

Q. You were a delegate from the Broughton Society?

A. Yes.

Q. Do you know David Downie, a goldſmith in Edinburgh?

A. Yes.

Q. Did you ever ſee that man in that Committee; ſee if you can find him out now?

(The witneſs looks at the priſoner.)

A. Yes, my Lord,—he is there.

Q. Did you underſtand him to be a member of that Committee?

A. I underſtood every perſon preſent to be a member.

Q. At what time did the Committee meet occaſionally?

A. I do not recollect the preciſe time.

Q. Were they uſually meeting about the time you were taken into cuſtody?

A. I know nothing of it; I had left the meeting a month before I was taken into cuſtody.

Q. Did they continue to meet when you gave them up?

A. Yes.

Q. What month was it you gave them up?

A. About the middle of April.

Q. Was there any other Committee you had occaſion to know any thing about, beſides this Committee of Union?

A. Yes, there was another.

Q. Tell the Jury what it was?

A. It was ſtiled the ſub-committee.

Q. Of whom did that Committee conſiſt, and who choſe it?

A. They were choſen by the Committee of Union.

Q. Were the members of the ſub-committee all the members of the Committee of Union?

A. Yes.

Q. That is to ſay, the ſub-committee were choſen a principal committee?

A. Yes.

Q. Tell the name of that ſub-committee, and who thoſe individuals were?

A. They conſiſted of ſeven, my Lord.

Q. Name them, if you can?

A. Aitchiſon, Burke, Stoke,—

Q. What was Stoke? do you know his profeſſion, his buſineſs?

A. I heard he was a Student.—M'Ewan, Watt, Downie, and myſelf.

Q. That ſame Downie?

A. Yes, that ſame Downie.

Q. Where did that ſub-committee meet?

A. In that ſame houſe.

Q. Had you ſtated nights of meeting at that Committee?

A. Yes, once a week.

Q. Did you ever meet in Watt's houſe?

A. Yes.

Q. Did you ever hear any other name given that ſub-committee, except ſub-committee?

A. I have heard of another name, but I did not know it; I underſtood it under that name.

Q. What was that other name you heard of?

A. I read it in a printed paper called the Committee of Ways and Means.

Q. And where did you ſee that paper that called it the Committee of Ways and Means?

A. I ſaw it in the Sheriff's office; I was ſhewn it.

Q. Did you ever ſee that paper in manuſcript, before you ſaw it there?

A. Yes, I ſaw part of it.

Q. And where did you ſee it?

A. In that Committee, of which I was a member.

Q. The circular letter?

A. It is called the regulations.

Q. Is that like the paper to which you are alluding?

A. Yes, beginning Fundamental Principles of the Society.

Q. Did you ever ſee any other printed paper or manuſcript?

A. Yes.

Q. What paper was it? Do you remember the import or ſubſtance or tenor of it?

A. I do not recollect the ſubſtance, but if I ſee it, I know it.

Q. See if you have ſeen that in the ſub-committee. Look at it?

A. Yes, Sir.

Q. Is that the paper you ſaw in manuſcript?

A. Yes, part of it; it has perhaps undergone ſome corrections ſince it went to the preſs.

Q. Was Downie in company when that paper was produced?

A. As to that, I am not poſitive whether he was or not.

Q. Did any of the members leave it before you left it?

A. Yes, three left it before me.

Q. Three before you?

A. Yes.

Q. Who were they?

A. Aitchiſon, Stoke, and Burke or Burt.

Q. Did the other three continue to attend?

A. Four, my Lord, as I believe I was a week after.

Q. After whom?

A There were juſt three in it.

Q. Who was the man that left it immediately before you?

A. Stoke, my Lord.

Q. Was there ever any money collected by that ſociety?

A. Why, yes, we collected a few pence every evening, in order to defray the room expence.

Q. Was there any money collected in the Societies, and given to you in that Committee, or to any of the members of it, to your knowledge?

A. I remember once, a very few pence that I carried to that Committee.

Q. From what Society?

A. From the Broughton Society.

Q. For what purpoſe was it carried?

A. To defray the expence in printing ſuch papers as theſe.

Q. Was no other purpoſe held out in your Society, for which money was collected?

A. I do not recollect any other purpoſe, my Lord. I remember there was an account owing to Mrs. Skirving, ſome demand ſhe had; I ſuppoſe ſhe would get ſome: I do not know ſhe got any, but a demand was made, or propoſed to be given in.

Q. Did any body act as treaſurer to the Committee?

A. There was no treaſurer choſe.

Q. Did any body act as treaſurer to that Committee to your knowledge?

A. Mr Downie was ordered to take up a few pence that was over the money due, and I ſuppoſe he took up any money that came to hand, but was not choſen treaſurer.

Q. Do you know any thing of Collectors, or people of that ſort?

A. I was entirely away from the Committee before theſe Collectors had any meeting at all.

Q. Did you know they were appointed?

A. Yes, I have heard they were appointed.

Q. Was it in a Committee?

A. No.

Q. Was it in your Society that you heard it, or from any member of your Society?

A. They were appointed I ſuppoſe by the Societies.

. You only ſuppoſe it—do you know it ?

A. I only ſpeak from my own knowledge.

Mr Anſtruther.—*Q.* Do you ſpeak from your own knowledge ?

A Yes, my Lord.

Q. Do you know what the duty of thoſe Collectors was, or the purpoſe for which they were appointed ?

A. I know little or nothing at all about the buſineſs, becauſe I left them.

Q. Do you know a little about it; even a little—tell nothing but what you know ?

A. I believe it was to ſee and collect a little money ; to ſend a delegate to England, upon any emergency, if I recollect well.

Q. A delegate to be ſent to a Convention, if any ?

A. Yes.

Q. There was no ſuch Convention before you left the Committee ?

A. No.

Q. State to the Jury, if you recollect, what was the reaſon of your leaving that Committee ?

A. I gave a ſtatement of that the other day.

Mr Anſtruther.—Thoſe gentlemen did not hear you.

Lord Advocate.—Tell us nothing but what is true.

A. I wiſh not to ſay any thing untrue.—I gave one reaſon for leaving it, which was my removing to another quarter of the town to teach. I gave no other reaſon to the Committee, though I had two other reaſons, one of which was, that I thought I evidently ſaw matters coming to ſome very great length, and that I thought I could not remain any longer ; the other reaſon I would not chuſe to advance ; it is a ſimple thing, but delicate, it is not reſpecting the Committee, but the peace of my own family, my Lord.

Q. I don't aſk you about that.

A. Theſe are all the reaſons I had.

Q. You ſtated you ſaw things were going a length you did not approve, and therefore you left it ?

A. That was one of the real reaſons.

Q. Had you any particular reaſon for forming that opinion?

A. Yes, I had.

Q. Be ſo good as tell the Jury what it was?

A. It was a paper that I heard read by one of the Sub-Committee.

Q. What Committee?

A. One of the Sub-Committee.

Q. Who were preſent at the meeting of the Sub-Committee when this paper was read?

A. Stoke, Watt, Downie, M'Ewan and I.

Q. As far as you recollect, what was the import of that paper? Which of thoſe perſons read that paper?

A. Watt.

Q. As far as you recollect, what was the import and ſubſtance of that paper?

A. My Lord, I can ſay very little about the ſubſtance; it raiſed ſuch a panic in me, I could not ſit to hear it; I can ſay very little about it.

Q. But you muſt ſay that little, and you muſt ſay it to the Jury.

Mr Anſtruther.—*Q.* You have ſaid you recollect little of that paper, it put you into ſuch an alarm,—now tell the gentlemen what that was?

A. It ſeemed to me, the little I did hear of it, it ſeemed to have a kind of hoſtile appearance that alarmed me.

Q. Can you recollect what word was in it that had an hoſtile appearance?

A. It mentioned, as a ſuppoſition, if a number of men could be collected together for certain purpoſes.

Q. What were the purpoſes?

A. If I miſtake not, it was to alarm the ſoldiery in the caſtle; that was one thing that ſtruck me in it.

Q. How were they to alarm them?

A. I do not poſitively recollect my Lord.

Q. What do you recollect?

A. That is part of what I recollect.

Q. What more do you recollect; give us the other part of what you recollect?

A. I think it was to ſeize the guard-houſe.

Q. What were they to do when they alarmed the ſoldiery in the caſtle?

A. I do not remember as to that: I think the Exciſe Office.

Q. What was ſaid in the paper about the Exciſe Office?

A. I don't remember a word that was ſaid about the Exciſe Office, but only to ſeize it and the Bank.

Q. To ſeize any thing elſe?

A. I recollect nothing further.

Q. Do you recollect that any body was to be ſeized?

A. Not one.

Q. Were any one perſon or perſons to be ſeized? do you recollect nothing about the Magiſtrates of Edinburgh being mentioned?

A. I do not. I do not recollect one name being mentioned.

Q. Were any Magiſtrates mentioned of Edinburgh?

A. I don't recollect.

LORD PRESIDENT.—*Q.* Was any thing ſaid about taking poſſeſſion of the Caſtle, or ſeizing the Caſtle, or any thing of that kind?

A. If I miſtake not, that was the intention of the ſoldiery being brought down from the Caſtle, but I cannot be poſitive whether that was really mentioned or not.

Q. You were alarmed?

A. Yes, my Lord.

Q. The plan alarmed you?

A. Yes, thoſe things that I have mentioned.

Q. What did Arthur M'Ewan ſay after the plan was read?

A. If I recollect well, he ſaid he would by no means go on with any thing of ſuch a nature.

Q. What did you ſay?

A. I anſwered, no, by no means; if I recollect well, thoſe were the words I uſed.

Q. The thing which Arthur M'Ewan ſaid he would not go into, was the ſame thing to which you ſaid, no, no?

A. Yes; by no means, if I well recollect,

Q. Did any body elſe ſay any thing about that?

A. I do not remember a word further ſpoke about it.

Q. Do you mean to ſay, no more was ſaid about it?

A. No more was ſaid about it,

Q. What became of it after that?

A. It was immediately placed in a preſs, in one corner of the room.

Q. Who were they that were to be collected to do this?

A. As to that, there was no perſon named, nor place from whence they were to come.

Q. Who did you underſtand were to be the people to execute this?

A. I was naturally led to ſuppoſe, my Lord, it was meant to be done by the Friends of the People.

Jury.—*Q.* Where was this meeting held, when this paper was read?

A. It was at Mr Watt's own houſe.

Q. Was this upon a Committee night?

A. No, my Lord.

Q. What night was it, then?

A. If I miſtake not, it was a Thurſday evening.

Q. For what purpoſe did the Committee meet that night?

A. For the purpoſe of writing a letter, if I recollect right.

Q. Now who was that letter to be written to?

A. I think it was to Mr Hardy in London.

Q. What was the letter about?

A. I have entirely forgot; it was an anſwer to a letter they had received, but I never had it in my hand.

Q. Was it about a Convention?

A. I never had the letter in my hand.

Q. Was it a printed letter, or a written letter?

A. I think it was a printed letter?

Q. Is that like it? Did you hear it read?

A. Yes. (The Circular Letter, ſigned T. Hardy, ſhewn the witneſs.)

Q. Is that like it?

A. I think ſo.

Mr Anſtruther.—*Q.* This is a letter upon which the Committee met; it was a ſpecial purpoſe, you ſaid before?

A. Yes.

Q. What other converſation was there at that meeting?

A. If I recollect well, there was no other buſineſs for them that evening.

Q. But there was ſome converſation?

A. As to converſation, I remember none, my Lord.

Q. Was there, or not, converſation about arming?

A. Not a ſyllable, as far as I recollect.

Q. Was there any converſation about an invaſion?

A. I remember not a ſentence but what I have told, that paſſed that evening, nor no other perſonal converſation.

Q. Do you recollect whether that anſwer was or not agreeing to that letter?

A. I do not recollect.

Q. You wrote an anſwer?

A. An anſwer was wrote that evening.

Q. Who was to carry that letter to Hardy? Was it to go by poſt?

A. No, my Lord, it was to go by ſhipping.

Q. It could not go to the ſhip without ſomebody carrying it—it could not find its way to the ſhip?

A. I don't know who carried it.

Q. In the Committee, was there any particular perſon pitched upon to take it to the ſhip?

A. There was a perſon pitched upon to take it.

Q. Who was it?

A. Mr Stoke.

Q. What was it in anſwer to?

A. It was, I recollect well, an anſwer to that letter you have ſhewn me.

Q. Where did you go after you had left the Committee?

A, We went up the town a little, and took ſome ſmall refreſhment, as Stoke was about to leave the place in a day or two.

Q. Who went up the town?

A. All the members that were preſent.

Q. Where did you go to?

A I take it, it was a public houſe; I never was there before, nor ſince.

Q. What part of the town was it?

A. It was up above the priſon here.

Q. Do you know Forſter's Wynd, or Liberton's Wynd?

A. It was the wynd above the jail.

Q. Did you ever hear of a woman, called Mrs Maſon?

A. Yes.

Q. Was it there?

A. Yes.

Q. Did you ever go there again?

A. Yes.

Q Had you any converſation about this paper with Mr Watt?

A. Not a ſyllable.

Q. You had no converſation about it going up the ſtreet?

A. No.

Q. Had you no converſation with Mrs Maſon about it?

A. No, there ſeemed to be a ſtranger there; there was a ſtranger that juſt came into our company, a little after we were met; at leaſt he was ſo to me.

Q. I think you ſaid you were very much alarmed by hearing this plan read, Mr Bonthorne?

A. Yes.

Q. And you gave as a reaſon, becauſe you thought it an hoſtile paper?

A. Yes, it had the appearance of it.

Q. Did you determine to continue in the ſociety after that, or did you determine to leave it after that?

A. I determined to leave the Society after that; in a day or two after I came to a full reſolution.

Q. Did you take any ſteps for announcing that reſolution to the public?

A. Yes, my Lord, but I did not put it in execution.

Q. Now what did you do?

A. I intended to advertiſe, but there was a circumſtance in my own conduct that prevented me.

Q. What did you mean to advertiſe?

A. That I wiſhed to drop all connection with it.

Q. Did you write a few lines?

A. Yes.

Q. When did you write it?

A. That ſame week that I left the Committee, towards the end of it.

Q. This was a Thurſday night this meeting was?

A. Yes, my Lord, but notwithſtanding that I reſolved—

Mr Auſtruther.—*Q.* The meeting was on a Thurſday night, and you wrote your advertiſement ſometime in the courſe of the week?

A. I think it was.

Q. You are ſure you wrote the advertiſement within a few days after the meeting you have been talking of?

A. I believe, my Lord, it might be the following week.

Q. Was it within a few days?

A. It was.

Q. Was what paſſed at that meeting your reaſon for writing that advertiſement?

A. Yes, that together with other circumſtances.

Q. Read this, and tell me whether that is the advertiſement you wrote?

A. Yes, my Lord, it was wrote on the Monday evening; and I thought I might as well go back on the Tueſday, and take my leave of them, which I did.

Q. Was this written the day it was dated?

A. Yes, or I have miſtaken the date.

(Paper read.) "Mr Bonthorne to the public."

"*Broughton, April* 21. I William Bonthorne, teacher in Broughton, a new choſen member of the Committee of

Union, in March laſt, and ſub-committee, but, for reaſons of weight with me, declare, that I have dropt all connections or communications with ſaid Committees.

WM. BONTHORNE."

Q. What did you do with that?

A. I juſt laid it by, as there was a circumſtance—

Q. I am aſking you about that paper; you laid it by; did you keep it yourſelf?

A. Yes.

Q. Did you keep it till you were taken up?

A. I ſuppoſe I was perhaps 6 or 7 weeks taken up before it was ſent for by one of the officers; they went to my houſe; they got my key; the Sheriff ordered me to give my key.

Q. Was it in your houſe that it was found?

A. Yes.

Q. Did the Sheriff's officer bring that paper?

A. Yes.

Q. Now, you ſay that paper was written on a Monday, and you went back on the Tueſday to the Committee?

A. Yes.

Q. You went back to another meeting of the Committee?

A. Yes.

Q. What did you do there?

A. I do not remember any buſineſs that evening.

Q. Did you take leave of them?

A. Yes, my Lord, I took leave of them, and took leave of the ſociety of which I was a member.

Q. Did you take leave of the Committee and the ſociety?

A. Yes, both in one week.

Q. Was it the ſame reaſon that made you leave the Committee as made you leave the ſociety?

A. I gave the ſame reaſons.

Q. Had you the ſame reaſons in your own mind?

A. Yes.

Q. Do you know a lad of the name of Fairly?

A. Yes.

Q. He is a friend of yours?

A. Yes.

Q. He lives at Broughton?

A. Yes.

Q. An intimate acquaintance of yours?

A. Yes.

Mr Anſtruther.—*Q.* Tell me your reaſon why you did not publiſh that advertiſement?

A. The reaſon was, becauſe I met with the lad Fairly, and wrote two or three lines to him; and after he went away he found fault with my conduct, becauſe I had left all the Committees.

Q. What were the two or three lines about?

A. It was to Mr Watt; I directed him to advance a few ſhillings to him, as he was going to Falkirk to ſee a ſiſter; he told me he had ſome commiſſion to take.

Q. From whom?

A. He did not mention the perſon.

Q. Who was the commiſſion from?

A. Mr Watt.

Q. Who elſe?

A. No other perſon.

Q. What money was he to get?

A. Purely out of friendſhip.

Q. What money was it he was to advance him?

A. I do not recollect, it was a few ſhillings; which he was to account for on his return.

Q. Whoſe money was it?

A. I ſuppoſe if there was a few ſhillings in Mr Downie's hands, Mr Watt could give it him.

Q. How was money to come into Downie's hands?

A. If there was a few ſhillings over.

Q. Over what?

A. Over what we collected for defraying other charges.

Q. Then it was the Committee's money he was to get?

A. I ſuppoſed ſo, I did not underſtand he was to give it out of his own pocket.

Q. Had Downie the keeping of the Committee's money?

A. For any thing I know.

Q. Don't you know he had it?

A. Yes, my Lord, he had it formerly.

Q. While you continued a member of the Committee Mr Downie had the money?

A. Yes, my Lord.

Q. Why was the Committee money to be advanced to the lad Fairley? I ſuppoſe you did not advance the Committee's money to any unleſs they were upon your buſineſs,—why was it to be advanced to Fairley?

A. It occurred to me, if Fairley was going to take a commiſſion from Watt, he would aſk for a few ſhillings.

Q. Was Fairley going upon the Committee's buſineſs, or Watt's private buſineſs?

A. I never aſked him, he never told me.

Q. How came you to deſire the Committee's money to be advanced for private buſineſs of Watt's?

A. I only deſired, as he was ſending a commiſſion with him, that he would advance a few ſhillings, to aſſiſt him upon his journey, for which he would account with him.

Q. Why was he to account with Watt, he ſhould have accounted with Downie,—what money was it you meant he ſhould advance to Fairley, was it his own money or the Committee's money?

A. My idea was, it was the Committee's money, if it was the Committee's buſineſs, but that I did not know, he did not ſay it was the Committee's money.—

Q. Do you know if the money was paid to Fairley?

A. I do not know that Fairley got a ſhilling of it.—

Q. Did Fairley aſk you to write again to Watt or Downie for money?

A. No.

Q. You never went back to the Committees?

A. No, nor no ſociety; there may be an inconſiſtency of taking leave of that ſociety and Committee, and writing that line.

Q. Then there would have been no inconſiſtency, if that line had been about your own private buſineſs?

A. No.

Q. Look at that, tell me if you know any thing about that? (ſhewing a paper.)

A. Yes, my Lord.

Q. You recollect that?

A. Yes.

Q. Where did you copy that from?

A. I took it from a copy that was drawn by the Committee of Union, at leaſt a copy that was drawn in that Committee was given to me, and I drew that from it.

Q. What did you do with that copy?

A. If I miſtake not it was read in the Broughton ſociety, and went from that to another ſociety.

Q. Did you do any thing in the Broughton ſociety in conſequence of this?

A. Yes, my Lord, there were 2 or 3 delegates choſen, to attend the Committee of Union.

Q. Which was the Committee of Ways and Means?

A. The Sub-Committee.

Q. Who were they choſen from?

A. They were choſen from the Committee of Union.

Q. How often were they changed?

A. The Sub-Committee?

Q. Yes.

A. There was no change during my ſtay.

Q. Was it an open or a ſecret Committee?

A. There was none of them, Committees or Sub-Committees, open to any one that appeared, unleſs they were members.

Q. Was the Sub-Committee a ſecret Committee?

A. I know nothing about the name ſecret Committee.

Q. Was it ſo in fact, did you let any body in but yourſelves?

A. We never all met but one evening, except the firſt.

Q. I aſk whether you ever let any body into that Committee?

A. Any perſons that had any buſineſs.

Q. What ſort of buſineſs?

A. Such as a letter to give. Any body that had buſineſs with the Committee came in.

Q. You know what a ſecret Committee means, do you?

A. I don't know what you mean.

Q. But you know what the words mean?

A. Juſt ſuch a Committee that wiſhes to have their buſineſs in ſecret or private. I mean we had always our door ſhut, and no perſons came in except they had buſineſs.

Q. And the Committee of Union was the ſame?

A. No perſons attend, as far as I know of it, but members.

Q. Did you ever hear of ſuch a thing as a Collector?

A. Yes.

Q. Were they for diſtricts, or diviſions of the country?

A I ſuppoſe it would rather be in numbers.

Q. By ſaying you ſuppoſe, do you mean that you *underſtood* it was to be in numbers?

A. Yes, I ſuppoſe ſo.

Q. You may as well drop the word *ſuppoſe?*

A. I uſe the word ſuppoſe, becauſe I am not altogether certain.

Q. Look at that paper, Did you ever ſee a paper of that ſize?

A. I have ſeen that in manuſcript.

Q. Where did you ſee it?

A. I think it was in the Committee, when it was wrote.

Q. What Committee?

A. The Sub-Committee.

Q. You ſaid, you never all met but once?

A. Yes, my Lord, viz. the firſt evening.

Q. Was it on the firſt evening when you ſaw that paper?

A. That was neither the firſt nor ſecond.

Q. When was it?

A. I do not recollect the evening.

Q. About what time was it?

A. I ſuppoſe it would be about the firſt of March, or thereabouts, or April, I think.

Q. Now, in whoſe hands did you ſee that manuſcript?

A. Mr Stoke's hand.

Q. Was it written in that Committee?

A. Yes, my Lord.

Q. Who was there when it was written?

A. I do not recollect the members that were preſent; I cannot recollect, ſome of the members might be abſent.

Q. Which might be abſent?

A. I don't know who were abſent.

Q Was it a full meeting, or ſmall meeting?

A. Only four; there were three gone.

Q. They could not be gone before you ſaw Stoke write hat paper?

A. I ſuppoſe three were gone—two gone, I mean.

Q. Do you remember whether the other five were there that night?

A. I am not poſitive.

Q. Was Arthur M'Ewan there?

A. He was abſent two nights.

Q. How many times were you at the Sub-Committee?

A. I cannot anſwer to that.

Q. Were you there 10 times?

A. Perhaps I was there the half of it.

Q. Then you were there 4 or 5 times?

A. Poſſibly I was.

Q. By poſſibly, you think you were?

A. I am not certain as to the number.

Q. It might be one more or leſs?

A. Yes.

Q. You are ſure it might not be 10 times?

A. It is impoſſible it could be that, owing to the time of my leaving it

Q. Tell me whether Mr Watt read it?

A. I don't think it,—if I recollect well, there was no bu finefs that night, except the anfwer to Hardy.

Q. Was this paper read in the Committee ?

A. Yes,

Q. What was faid about it ?

A. I know nothing further : any further than it was wrote, and he was to take the management of it.

Q. Who was to take the management about it ;

A. About what ?

Q. The letter which was to go to Hardy, the paper about the Fencibles ?

A. I know no more than I faw it when it was wrote.

Q. Did nobody fay any thing about it in the Committee ?

A. I don't remember a word.

Q. Was it a public paper of the Committee, or a private thing of Mr Stoke's own ?

A. Mr Stoke brought it into the Committee.

Q. Do people do any thing in the Committee, but the Committee's bufinefs ?

A. No.

Q. Then, when Mr Stoke was writing that paper, and when he read it, it was about the Committee's bufinefs?

A. I have told every thing I know about it.

Q. Did you underftand him to be writing that paper about the Committee's bufinefs ?

A. Certainly, my Lord, I never imagined it was private, when it was done in the Committee ?

Q. Was Downie there that night?

A. I cannot fay whether he was, or was not, but I think M'Ewan was abfent that night.

Q. Then the Committee was reduced, if Burke was away, and Watfon away and M'Ewan not there, then the Committee only conſiſted of Watt, Downie, Stoke, and yourſelf ?

A. Yes.

Q. Now Stoke was there ?

A. Yes.

Q. Was any body there befides you and Stoke?

A. Yes.

Q. Were you and Stoke alone?

A. No, my Lord, I don't think that.

Q. Was any body there beſides Stoke?

A. There were only two remaining. I am not poſitive.

Q. What do you think about it?

A. I think they were preſent, I cannot ſay for certain.

The paper read. This paper is dated, Edinburgh, 5th March 1794.

"The General Committee having met, C. E. Stoke appointed Preſes, and Citizen Robertſon Secretary, the buſineſs commenced, by forming a plan of organization for the Friends of the People in Edinburgh; Citizen Watt propoſed to recommend to the different Societies to chooſe a permanent Committee to ſit once a week; and that they ſhould be a committee of 7 to be empowered to tranſact the buſineſs of the Friends of the People; the Committee to report to the different Societies; and that this Committee recommend to their different Societies to chooſe two or three members for the Committee to meet on Tueſday next, at 7 o'clock, and that they chooſe the Sub-Committee to ſit ſame evening, and report to the General Committee."

Mr Clerk.—*Q.* You ſpoke about a paper that alarmed you much; did you hear ſuch a paper was to be read, before you went to the Committee that night?

A. No, I never heard a word about it; the paper was juſt laid by, and not a word ſaid about it.

Q. It was taken up by Watt, and read?

A. Yes, and then laid up by Watt.

Q. Did you conceive it a propoſal made by Watt, for the adoption of the Committee?

A. No, my Lord, I never viewed it in that light.

Q. In what light did you view it? Was it a ſcheme to be put in execution by the Committee?

A. I dare ſay, that Committee never would have adopted ſuch a ſcheme.

Q. I think you ſaid M'Ewan expreſſed his abhorrence at the ſcheme, and you expreſſed yourſelf much to the ſame purpoſe?

A. I ſaid, no, no.

Q. Did you underſtand theſe expreſſions, as conſiſtent with the opinion of the reſt of the Committee?

A. As to the expreſſion, the reſt of the Committee did not expreſs approbation, or diſapprobation.

Q. Was it a ſcheme propoſed by the Committee?

A. I never looked upon it in that light, or that it was read with that view; I knew nothing of whether Mr Watt wrote that paper.

Q. Did you conceive it merely as matter of curioſity?

A. I rather conſidered it as a kind of phrenzy, my Lord.

Q. Did any of the members of the Committee expreſs any approbation of the ſcheme?

A. None that I recollect.

Q. Had you any converſation with Downie about it afterwards?

A. Never a ſyllable, as far as I recollect.

Q. Can you aſſix any reaſon for that; for not converſing with the Committee about this ſtrange paper?

A. I never was in the Committee but one time after; I never ſaw Mr Downie after, but one day I paſſed him going to church. I never ſaw Mr Downie after that evening.

Q. Who took the chief lead and direction of the buſineſs of this Sub-Committee?

A. Mr Stoke and Mr Downie wrote any thing they had occaſion to write.

Mr Anſtruther.—Mr Stoke and Mr Downie wrote any thing they had occaſion to write?

A. No, not Mr Downie.

Q. Mr Stoke, and Mr Downie, you ſaid.

A. It was a miſtake.

Q. Who was employed by the Committee?

A. I don't underſtand you.

Q. Was Downie an active member of the Committee?

A. He was a member.

Q. Did he interfere much in the management of the buſineſs?

A. No, not any further than taking a few pence that was brought to the Committee, but never kept any book as I know of.

Q. Was there much money collected?

A. No, my Lord, while I remained there was not.

Q. Could you give a name to it?

A. I could not.

Q. Was there 20s. 30s. or 40s?

A. I could not give it a name, my Lord, on no account.

Q. Was there 100l. collected?

A. There might not be 100l. for me.

Q. Mr Downie took the whole that was collected.

A. Yes.

Q. And paid for the room?

A. Yes, I underſtood ſo.

Q. Had you any book?

A. No, no book.

Q. No minutes?

A. No minutes, my Lord; there was no preſes choſen, nor no minutes.

Q. Do you know, from your own perſonal knowledge, that Mr Downie received any money at all?

A. I know of my own perſonal knowledge, that I have ſeen Mr Downie take up a few pence, and jot it down to pay for the room.

Q. Have you ſeen any money paid by him?

A. Yes, a few ſhillings.

Q. Can you tell what was paid to him?

A. It was impoſſible for me to tell.

Q. I aſk you what you know from your own knowledge?

A. I have ſaid I have ſeen a few ſhillings paid in at the time.

Q. And that is all?

A. Yes.

Mr Anſtruther.—Were you preſent at the Sub-Committee on the firſt of April, do you remember?

A. My Lord, I cannot recollect as to the day, it is impoſſible.

Q. Do you know Mr Downie's hand-writing?

A. I don't recollect his hand-writing; except in the Sheriff's Office, I never ſaw him write down what he had, he jot that down for a few pence.

Mr Clerk.—*Q.* You ſay the cauſe of your alarm was, they were to carry things to an extraordinary length; do you think that Mr Downie was one of them that meant to do ſo?

A. I never underſtood the meaſures in that paper were to be carried to any length at all, but that paper was juſt to be thrown by and deſtroyed; I never underſtood that was ever to appear in that Committee again.

Q. I thought you mentioned your reaſon for leaving that Sub-Committee was, you were afraid they were going to puſh meaſures to an extraordinary length, did not you ſay ſo?

A. I ſaid it went extraordinary lengths, but I did not think it was to be carried into execution.

Q. Was Downie one of the people by whom you were afraid it would be carried to extraordinary lengths?

A. No, ſir, I never ſaw any thing in Mr Downie, that gave me the leaſt occaſion for any alarm.

Q. Have you ſeen Mr Downie?

A. Yes, I have ſeen him in different Committees and places

Q. What is your opinion of his diſpoſition?

A. I don't know whether it is a fair queſtion, my opinion about any body's diſpoſition; I don't think it a fair queſtion.

Q. Do you conceive Downie to be a man of a peaceable, quiet diſpoſition?

A. I never ſaw any thing to the contrary.

Mr Cullen.—*Q.* You had no acquaintance but in the Committee?

A. None.

Q. Were you acquainted with him before you came into the Committee?

A. No, I once occaſionally was with him, I had no acquaintance with him.

Mr Baron Norton.—Q. Will you tell us as to that paper that gave you ſo much alarm, that you did not think was fit to be carried into execution, can you tell what way it was introduced in the Committee?

Q. To the beſt of my recollection, our meeting that evening was to anſwer a letter that came from London; I know of no other buſineſs; it was to be before the Committee that evening; and Mr Watt juſt took this paper from his pocket, or from the preſs, and read it, and put it down.

Q. And did not ſay a word about it?

A. No.

Q. Nor why he read it?

A. No.

Q. Nor about what he was going to read?

A. He ſaid he was going to read a paper.

Q. Did he ſay he had ever ſhewn it to any perſon before?

A. No, my Lord, he did not.

MR GARDNER, *Sworn.*

Mr Anſtruther.—Q. Do you know Mr Downie's hand-writing?

A. Yes, and I have a letter in my pocket, which I received from him when he was in jail.

Q. Will you look at that, and tell me whether it is his hand-writing?

A I am certain David Downie is his hand-writing.

Q. Is the poſtſcript?

A. I think the poſtſcript is, but cannot be ſure of it.

Q. Look at that?

A. It certainly is; I have had ſo many years an opportunity of knowing his hand-writing.

Q. You are ſure that is his hand-writing?

Yes.

Mr Cullen.—There is a circular letter for collecting money; I wiſh to aſk Mr Gardner a queſtion about it.

Croſs Examined.

Mr Cullen.—*Q.* Be ſo good as to look at the printed letter, and ſee if the interlining is Downie's hand?

A. It is better wrote than he writes in general; it is not like the ſubſcriptions I have had from him. I cannot ſay whether it is or not, becauſe it is better wrote than any thing I ever ſaw written by him.

Q. You have been long in this town as one of the ſociety of goldſmiths?

A. Yes.

Q. Has Mr Downie been long a member of that ſociety.

A. He has been 24 or 25 years, and has been doing buſineſs for me ſince 1768.

Q. What is your idea of his character, as a man of good diſpoſition and deportment?

A. During all my acquaintance I thought ſo. I have often employed him in my own trade.

Q. Did you remark his temper and benevolence?

A. As to that, I never had any opportunity of knowing it at all. It was always in the way of tranſacting buſineſs.

Q. Diligent and honeſt?

A. Yes.

Q. Did he bear a good character in the Corporation?

A. Yes, I always looked upon him very attentive in managing his own affairs, as far as I can ſee.

Q. Did you ever know any thing to the contrary, any thing againſt his character?

A. I never had cauſe to ſay he did any thing wrong to me; as to his private character in any other dealings with the world I could ſay nothing of it.

PETER MATHIE, *Sworn (Jeweller)*

Mr Anſtruther.—*Q.* Do you know Mr Downie's hand-writing?

A. I do.

Q. Tell me if that is it?

A. This is Mr Downie's ſignature.

Q. Tell me if the poſtſcript is his hand-writing that follows the ſignature?

A. Yes, I think it is.

Q. You think it is?

A. Yes, I think it is; I am certain the ſubſcription is, and the other is exceedingly like his hand. (The priſoner deſired to ſee the letter and the printed letter.)

Witneſs.—Mr Downie was aſking me if I was aſked if this was his hand-writing, (ſhewing the printed letter) I ſaid it was not.

Priſoner.—*Q.* Do you think it is?

A. No, I do not think it is.

MR JAMES HUNTER, *Sworn.*

Mr Anſtruther.—*Q.* You are a Clerk of the Bank?

A. Yes, Sir, Teller.

Q. Do you find in the Bank any bill for 15l. paid to Mr Downie?

A. Yes, I do.

Q. What Bank, Mr Hunter?

A. The Bank of Scotland.

Q. Is that Mr Downie's receipt upon the back of it?

A. It is preſumed to be receipted by Mr Downie.

Q. Is that the receipt of the perſon that got the money?

A Yes, it is.

Q. Is it the practice to put it in that manner when he receives it?

A. To put received above his name.

Q. You paid that money?

A. It appears in my book to have been paid the 16th of April.

Q. Does it appear it was paid the day it ſhould be?

A. It does not appear.

Q. But paid to Miller 15l.?

A. Paid 7th of April.

Number 11. 15l. 7th of April

Six days after date, pay Walter Millar as adviſed by Wm. M. *To the Treaſurer of the Bank of Scotland.*

Indorſed—Pay the within to the order of David Downie.

Clerk of Arraigns.—This letter is directed to Mr Walter Miller, care of Mr Peter Craig, at Mr Robert Whyte's, merchant, High Street, Perth. This letter is dated, "Edinburgh, 9th April, 1794.

"Sir,—" I would have wrote you yeſterday on receipt of yours, containing the bill of 15l. ſterling on the Bank of Scotland; but by your omitting to ſend me your addreſs, was prevented; and finding nobody here who could inform me, as there are ſo many of your name at Perth, I direct this letter to the care of a perſon who, I was informed, would not neglect the firſt opportunity of tranſmitting it to you.

"The Committee, to whom I ſhewed yours and its contents laſt night at their meeting, empowers me to tranſmit to you, and all their friends, their hearty thanks for ſo liberal a remittance, and to aſſure you, it will be applied to the moſt proper ends in view.

"There are no letters from L. as yet, but you will ſee in the London papers mention made of holding the Convention.

"We have had here an affray of a very ſerious nature at the Theatre, on Monday laſt, the occaſion of which was this:

"There was a tragedy to be performed of the name of Charles the Firſt. The play began, and was going on with the greateſt harmony and decorum, when ſome furious Ariſtocrats, wanting, no doubt, to try the diſpoſition of the people, called out for the tune of God ſave the King. The tune was juſt beginning, when an univerſal hiſs, mixed with lamentable

murmus, pervaded all over the houſe; and the ſons of the fiddle were obliged to deſiſt, and they played the tune of Maggy Lauder, which met with univerſal applauſe. The diſcomfited Ariſtocrats, not knowing what to do, in order to effect their purpoſe, called in the Fencibles in the Caſtle, with their officers, and then deſired the Royal Song to be again attempted, when, meeting with the ſame treatment as before, the officers drew their ſwords, and the ſoldiers, their inſtruments of death, to deter the unarmed multitude from oppoſing the ſong of their Royal Maſter; and theſe Heroes went to ſuch a length, as to cut and maim ſeveral people in the pit, who refuſed to take off their hats as the tune was going on. I am ſorry to ſay that ſome of our beſt friends have been bruiſed very ſeverely. After the tune was over, the play went on as if nothing had happened;—none of the newſpapers here take any notice of this. We have alſo a report that the Fencibles juſt now in the Frith have been very turbulent, and that an armed boat was ſent to over-awe them, and to reduce them to ſubjection; and that the Sans Cullottes fired ſome balls into the boat, when it thought proper to ſheer off. We have received news this day of orders being given to ſtop the recruiting, and we have ſome reaſon to believe it, as it came from one of our Baillies.

"We propoſe to ſend you a parcel by the carrier. Will you be pleaſed to ſend us your addreſs as this comes to hand. I am, your very humble ſervant, DAVID DOWNIE."

Edinburgh, 9th April, 1794.

"P. S. We are happy to have it in our power to aſſure you from our information from England, and different parts of Scotland, that the late proſecutions, inſtead of retarding, have accelerated the great cauſe of freedom.

"They have in all ranks created the deſire of knowledge, of courſe increaſed the number of friends. If we can therefore judge from our aſſurances, the day is not far diſtant, when the people ſhall, as they ſhould, be triumphant over the enemies of our country."

Mr Auſtruther.—The gentlemen of the Jury will under-

ſtand the body of the letter is written by a Clerk, or ſomebody or other, and ſigned by David Downie. The poſtſcript is written by Downie himſelf.

(Another paper read.)

This begins "—Sir, Laſt night at a meeting of the F of the P in Edinburgh, a motion was preſented by Citizen William Robertſon, in conſequence of a repreſentation from Citizen David Hunter, that you wiſhed to be informed of the ſtate of the public ſpirit in the city, and that you likewiſe deſired to have ſome ſubſcription papers forwarded to you; whereupon it was reſolved, that the ſub-committee ſhould be authorized to write you, and while they tranſmit you the ſubſcription papers, requeſted to inform you at the ſame time, that the ſpirit of freedom, notwithſtanding all the unconſtitutional meaſures, lately adopted, is by no means depreſſed, but, like a fire attempted to be ſmothered, increaſes tenfold, and will ere long conſume all thoſe who attempt to extinguiſh it.

"There are many things which we may wiſh to write, which perhaps, in the preſent criſis, it would be imprudent to commit to paper. We ſhall therefore conclude, with wiſhing an increaſe to the number of the real friends of freedom all over the globe, and of the friends of conſtitutional reform in this iſland in particular.

"When you, or any of the worthy members of your aſſociation, have buſineſs this way, we ſhall be happy to ſee you. Societies of the F. of the P. meet every night except Saturday and Sunday, either at C. Robertſon's ſchool, Symon's ſquare, —Philips ſchool, Calton, or C. George Roſs's, Liberty court, South Bridge.

"In the name of the Edinburgh Committee of the Society of the F. of the P. I am."

Clerk of Arraigns.—There is no ſubſcription.

"*P. S.* Either on Saturday, or at fartheſt on Tueſday next, you may expect the firſt number of the new Gazetteer, which will then begin to be publiſhed in the ſpirit of the old. Leſt the proprietors ſhould fall ſhort of funds to pay the ſtamp

duties, it is propoſed that every ſubſcriber ſhould pay *per* advance.—Subſcriptions by C. George Roſs, Gazetteer office, South Bridge, who will grant receipts for the money.

" Sub-Committee, April 1ſt.

" Reſolved, that Mr Reid the former treaſurer be requeſted to continue in his office, ſubject to the reſtrictions to be hereafter laid down.

" Reſolved, that till his determination be known, C. D. be requeſted to take charge of the monies which may be received by the Committee this evening.

" *Minutes.*

" Report of the Committee of correſpondence given in.

" From the Cannongate ſociety No. 3, received the ſum of one pound ten ſhillings and three pence half penny, which is hereby placed to their credit. DAVID DOWNIE.

" Regulations of the Sub-Committee with reſpect to the treaſurer. April 1ſt 1794.

" All monies that ſhall be paid into the treaſurer's hands from this day, ſhall be applied to ſuch purpoſes only as the Committee of Ways and Means for the time being ſhall direct.

" The treaſurer ſhall give a receipt to the ſaid Committee, for what monies he may have received from them.

" The treaſurer ſhall not give up any part of the ſaid monies, on any pretext, except on a requiſition ſigned by four members of the Sub-Committee, and ſpecifying the ſum wanted."

Priſoner.—Gentlemen of the jury, you will obſerve that is not my hand writing, except the receipt for the money produced to ſhew it. The receipt for money is my hand writing. I acknowledge to have received that money. That is my hand writing only; there is nothing of my hand but the receipt for the money.

WILLIAM LOCKHART *Sworn.*

Lord Advocate.—Q. Do you know a man of the name of Robert Watt?

A. Yes.

Q. Where did he reſide?

A. North Bridge Cloſe.

Q. You are Sheriff's clerk?

A. Yes.

Q. You had a warrant from the Sheriff to ſearch Watt's houſe?

A. Yes, to ſearch for ſome goods alledged to be ſecreted there.

Q. Did you ſo?

A. Yes.

Q. Who was there?

A. There was Mr Miller.

Q. Remember what time of the day it was?

A. The 15th of May.

Q. What time of day?

A. In the afternoon.

Q. Did you find the goods?

A. Yes.

Q. In Watt's houſe?

A. Yes.

Q. Tell the Jury what you found, and what you did there?

A. I found ſome pikes there.

Q. Let us ſee them?

Q. (Producing the pikes) thoſe twelve I found in a locked up preſs, in the courſe of my ſearch: I took one up to the Sheriff Clerks Office, and informed him of it, and he gave me a warrant; I carried it to Watt's, and Watt was come into the houſe, and he was taken up to the Sheriff's Office.

Q. Did you go back that evening a ſecond time, or third time?

A. Yes, I did; I went back between twelve and one that night, to ſecure the windows of the houſe.

Q. Did you make any further ſearch?

A. Yes, I obſerved a cloſet that I had not been in, in the former ſearch, and we ſearched the cloſet, and there I found ſome more.

Q. What did you find?

A. I found other two of this kind, and thoſe two, and this pole.

Q. Did you try whether they fitted with that pole?

A. I tried them before they came out of the houſe.

Q. Try them again, and ſee if they fit?

(Then he ſcrewed on the halbert head.)

Q. Did you try the other?

A. Yes.

(Then he tries on the large one, which fitted in the ſame ſcrew, and on the ſame pole)

COURT —What is the uſe of that thing you have in your hand now, explain it?

A. A ſmall ſhort handle it is ſcrewed into, to go upon a different ſtick or another, or to go over the top of the ſtaff with the ſcrew, without ſcrewing on; it ſlips on that part, and comes conſiderably lower down over the head of the pole, and is changeable, like a bayonet fixed.

LORD ADVOCATE. *Q.* What was done with theſe?

A. They were carried to Sheriff Clerk's Office.

Q. Did any thing elſe appear proper to be carried to Sheriff Clerk's Office, that day or the next?

A. There was a fount of types found the next day.

Croſs Examination.

Mr Clerk.—Pray were you ſent to ſearch Mr Downie's, the priſoner's houſe?

A. Yes.

Q. Did you find any pikes there?

A. No, ſir.

Lord Advocate.—How long after was it?

A. A conſiderable time after.

WILLIAM MIDDLETON, *Sworn.*

Q. You are a Sheriff's Officer in Edinburgh?

A. Yes.

Q. Do you recollect being employed to ſearch the houſe of Robert Watt?

A. Yes, on the evening of the 15th day of May.

Q. Who was employed in that ſearch with you?

A. Mr William Lockhart.

Q. What was the purport of that warrant?

A. The purport of that warrant was to ſearch for ſome goods ſecreted there, belonging to a fraudulent bankrupt.

Q. Were they found?

A. They were found in a cellar, coming into the dining-room of Watt's houſe.

Q. Where were theſe ſpears?

A. The door was locked where they were. It was opened by the ſmith that had previouſly opened the place where the bankrupt's goods were ſecreted; I took one in my hand, and Mr Lockhart ſaid he thought it a dangerous inſtrument; it looked very uncommon; he thought it dangerous, and aſked if there were more; I ſaid yes; on laying them down on the carpet, there were 12.

Q. Did you make any other ſearch?

Q. Yes, upon the ſecond time, we went in upon the ſecond flat of Mr Watt's houſe, thinking we had not went too narrowly to work—we ſearched further—we found two more pikes, two battle axes and a ſhaft—theſe are them.

Q. Did you try them to the top?

A. Yes.

Q. And did they fit?

A. Yes.

Q. Did you make any further ſearch after pikes?

A. Yes, I went to Robert Orrock, the ſmith at Dean. I had a warrant from the Sheriff.

Q. What was it to do?

A. To ſearch for ſpears.

Q. Did you find any?

A. I found two or three and thirty of the ſame kind; thoſe are the inſtruments that were found in the ſmiddy of Robert Orrock, the ſmith at Dean.

Q. And in an unfiniſhed ſtate?

A. Moſtly all in an unfiniſhed ſtate.

Q. Two or three and thirty?

A. Yes, I am not poſitive of the number.

Q. What did you do then?

A. They were brought to the Sheriff's Office, and lodged there, and Orrock brought a priſoner along with them.

Croſs Examination.

Q. Do you recollect when you ſearched Watt's houſe?

A. It was in the evening of the 15th day of May.

Q. Was that towards the end of the week?

A. About Thurſday.

Q. Did not you afterwards ſearch Downie's?

A. Yes.

Q. How long after?

A. I think about the Saturday after.

Q. Are you ſure it was not upon the Friday you ſearched Watt's houſe?

A. No, ſir,

Q. Did you find any thing in Downie's houſe?

A. No ſir; but there was a ſlate he ſaid he had kept a journal upon, for the money under his hands.

Q. I aſk if you found any pikes there?

A. No; nothing of the kind.

Q. When was it you ſearched Downie's?

A. I cannot poſitively ſay.

Q. Was it the ſame night you ſearched Watt's.

A No, I am poſitive it was not.

Q. Was Lockhart with you?

A. Yes, it was the ſame day that Lockhart and Dingle were ſearching Watt's houſe, I was preſent with them.

MARGARET WHITECROSS, *Sworn.*

Lord Advocate—*Q.* Do you know David Downie, the goldſmith, is that him there?

A. Yes.

Q. Were you in his ſervice laſt winter?

A. Yes, I was.

Q. What time did you leave his ſervice?

A. At Whitſuntide.

Q. Have you ſeen any thing like that before?
(ſhewing the witneſs the pike head)

A. Yes, I have.

Q. Where did you ſee it?

A. In Mr Downie's dining-room.

Q. Was that before the term?

A. I think it was a great while before the term.

Q. When did you ſee it?

A. I ſaw it in the morning, when I went to duſt the dining-room.

Q. What time?

A. I believe it was about 6 o'clock in the morning.

Q. Did you ever have any converſation with your maſter about it?

A. His ſon came and took it away,

Q. Was there any converſation between your maſter and miſtreſs about it?

A. She aſked him what he had done with the dividing-knife.

Q. Did he ſay whether he had got the dividing knife?

A. She aſked Mr Downie what became of the dividing-knife that Charles found in the dining-room.

Q. What did he ſay?

A. I believe he ſaid he had locked it by.

Q. Had there been any body the night before in your maſter's houſe at ſupper?

A. No.

Q. Who let your maſter in that night?

A. I did.

Q. Was it late?

A. I cannot be certain; I had been in bed.

Q. Was it four o'clock?

A. I believe it was; the ſon came out from his bed-cloſet in the morning, as ſoon as he heard me in the room.

Q. And took up this knife?

A. Yes.

Q. Is that the thing Mrs Downie called the dividing-knife?

A. I am not certain.

Q. Do you know who brought it there?

A. No, I cannot ſay.

COURT.—*Q.* Did the ſon take it away from your own hand?

A. No, I had it not in my hand.

Q. Did your maſter ſay any thing about it, when he came in late at night?

A. No, ſir.

Q. Did you ever hear your maſter propoſe taking any thing of the kind with him at night to defend himſelf?

A. No.

Q. Had the ſon his cloaths on when he came out of the bed-cloſet?

A. Some, but not much.

Q. And he took it away?

A. Yes.

LORD PRESIDENT.—*Q.* Had Mr Charles the ſon been out with his father that night?

A. No.

Q. Where did the ſon carry it to when he took it away?

A. I cannot ſay, he took it into the cloſet.

Q. Who aſked Mr Downie what he had done with the dividing knife?

A. Mrs Downie aſked him what he had done with the dividing knife that the ſon had in his hand.

Q. What did he ſay?

A. He ſaid he had locked it by.

LORD PRESIDENT.—*Q.* When was the queſtion aſked at Downie?

A. Sometime after, I cannot juſt recollect whether it was the ſame day or no.

Q. Did Mr Downie ſay any thing more about that dividing knife?

A. He did not ſay it was not a dividing knife.

Q. Pray did you think Mr Downie was ſpeaking of an inſtrument like that, when he was talking of a dividing knife?

A. No.

Q. Did you know what he was ſpeaking of?

A. I did not know.

Q. Are you ſure the inſtrument you ſaw was like this?

A. To the beſt of my knowledge, I think it was.

Q. Had it ſuch a thing as this and that?

(Pointing to the axe and hook parts.)

A. I think it had, but I had it not in my hand.

Q. When did you ſee it?

A. At 6 o'clock.

Q. Did you take a good look at it?

A. Not a very good look.

Q. Did you think what it was at the time?

A. I never had ſeen ſuch a large dividing knife?

Q. Would you take that for a dividing knife?

A. I cannot ſay.

Q. Pray is not your maſter a dealer in old blades of ſwords, and different inſtruments?

A. No, ſir.

Mr Cullen.—Had not he a working furnace?

A. A ſmall working furnace.

Q. Was you looking at it when the ſon came and took it up?

A. No, ſir.

Q. Did he go to his bed again after he took it up?

A. I cannot ſay, ſir.

COURT.—Did he ſeem to have any other buſineſs in the room, than taking up the knife?

A. I did not ſee any other buſineſs he had.

Q. Did you never tell your neighbours about a thing of that kind?

A. One day the neighbours happened to be ſpeaking abou

it. I don't recollect; they were ſpeaking about ſomething, and I happened to be ſpeaking about it.

Q. It did not ſtrike you, you had ſeen a thing of that kind before?

A. No, ſir, I did not think much of it.

Lord President.—*Q.* Had you been in the room, the night before?

A. Yes.

Q. Were you late in it?

A. I could not recollect.

Q. How long before were you in that room?

A. I could not ſay.

Q. Did the family ſup in the room?

A. I cannot ſay.

Q. Is that the room they commonly eat in?

A. Yes.

Q. Did not you ſay you had been in bed before your maſter came in?

A. Yes.

Mr Cullen.—*Q.* Did you let your maſter in that night?

A. Yes.

Q. When did you quit Downie's ſervice?

A. At the term, the 13th day of May.

Q. Did you differ?

A. Him and I differed before I came away, and I did not get all my wages.

Q. What was the occaſion?

A. I had given good warning to my miſtreſs before I went; I then engaged myſelf to another place, and my father came a day or two before the term, and took me away; and my miſtreſs would not pay.

Court.—She ſays her father came two days before the term, and took her away.

Q. Was there any other cauſe?

Q. No, and I did my beſt to get another place.

Q. Did Mrs Downie find fault with your conduct in any other particular?

A. No ſir, not that I know of.

ROBERT ORROCK, *Sworn.*

Mr Solicitor General.—*Q.* You live at the Water of Leith?

A. At Dean.

Q. Were you a member of the Britiſh Convention that met laſt winter?

A. Yes.

Q. You were a delegate to it?

A. Yes.

Q. Do you know that the Britiſh Convention was diſperſed by the Magiſtrates?

A. Yes.

Q. After that, do you know of a Committee being appointed and meeting?

A. I know that there was, but it was a good time after that.

Q. How long after?

A. I cannot ſay.

Q. Would it be a month or ſix weeks?

A. Certainly it was more than that.

Q. A meeting was held?

A. There were ſome meetings in the town.

Q. Did you ever hear of ſuch a thing as a Committee of Union?

A. Yes,

Q. Who compoſed it?

A. I don't know.

Q. Do you know any of them at all?

A. Yes.

Q. Were they choſen from other ſocieties?

A. Yes, from other ſocieties. There were different ones choſen; ſome choſe more than one—I ſuppoſe two or three; but, in point of telling who the members were, there were very few that I for my part knew perfectly, but there was from that ſociety that I came from, the Water of Leith, there

were Mr Arthur M'Ewan, and William Farquharſon, and myſelf.

Q. Who elſe?

A. Mr Watt, Mr Downie, Mr Stoke.

Q. Were you yourſelf a member of that Committee?

A. Yes, I was.

Q. Where did the Committee meet when the ſociety was ſent to?

A. I don't know whether word came to, but our ſociety met, and delegated for to go.

Q. Where was that?

A. At George Roſs's.

Q. Were you ever preſent at more than one meeting?

A, I was preſent at many—at different ones. I was not preſent every night there; often from buſineſs I could not get to attend.

Q. Were you there when there was any converſation about arming?

A. Yes, I was.

Q. Tell us what was ſaid, and who ſaid it?

A. It is rather a thing that baffles me—you ſpeaking to me.

Q. Be ſo good to tell what paſſed at this Committee?

A. I was reading the newſpapers; there were different ones reading the paper, and I myſelf for one.

Q. Mention who it was?

A I will mention it when I have time.

Q. Tell your own ſtory, it is beſt.

A. That is beſt. There were different ones reading the paper, and I myſelf for one, as I ſaid before; there was great talk in the paper of a French invaſion; there was likewiſe ſaid, but poſitively by whom I could not ſay, I ſuppoſe it was by Mr Watt, as I told you before, that there were arms come down to the Goldſmiths-hall gentlemen; that was the words as near as I can ſay; I think Mr Watt was the perſon that ſaid ſo. Some one there ſaid that we had better apply for arms, and it was ſaid again, by whom I cannot ſay, there need no application; for, if the Friends of the People applied

to government, they would get none. It was then ſaid, I believe by Mr Watt, I could not, as I have now ſworn, ſay he was the perſon, that there was no law in exiſtence to hinder us from getting arms for the defence of the country; at the time upon which I was ſaying this converſation paſſed, I ſaid I would make one.

Q. What kind of arms?

A. There is the ſtick.

Q. What paſſed in the Committee upon it?

A. There was no more paſſed.

Q. You ſaid you would make one of them? What did you mean by *them?*

A. What they had mentioned, to wit, weapons.

Q. What did they call them?

A. I could not poſitively ſay that; they ſaid they were pikes, and I ſaid I would make a weapon for myſelf, which I accordingly did ſometime after,—this was a conſiderable time after.

Q. Tell now who were preſent. Was Downie preſent at this meeting of the Committee?

A. Yes, Mr Downie, Mr M'Ewan, Mr Bonthorne.

Q. And were any more?

A. I do not recollect who elſe was preſent, there were more people, but there were people there I never ſaw, and did not know their names—there was very little ſaid.

Q. You accordingly made ſuch a weapon?

A. Yes, I did. Upon making it Mr Watt came to the Water of Leith, and he ſent for me—I was buſy working at home at the time; I did not go the firſt time—there came down a perſon again, and I went to the Water of Leith when I left work, and I aſked who ſent for me; I found it was Mr Watt, and he aſked me if I had made ſuch a weapon.

Q. He ſeemed to underſtand what it was;—What did you ſay?

A. I told him I had.

Q. What kind of weapon was it that you made for yourſelf; like one of theſe?

A. No, like none of them.

Q. What did Watt ſay?

A. Make a knife like a point of a ſword,—it was a thick back and thin edge,—it was ſharp on both ſides at the point,—it was ſharp at the point on both ſides about an inch.

Q. That was the weapon you made for yourſelf,—Mr Watt ſaid would not ſo and ſo be better?

A. I did not ſhew it Watt, he only heard by repreſentation what the weapon was like, before I ſhowed him he underſtood what ſort of a weapon I had made, and of courſe ſaid that would do better.

Q. Did he make a drawing any thing like it?

A. As far as I ſaw he did not upon paper, but the table was wet, and he made it of that figure. He deſired me not only to make it, but he deſired after this was made according to his directions, I was to carry that I made for myſelf, and the other, to the Committee, and accordingly I did make and carry it; that is the very thing I made to his directions.—After I had made it I was in the Committee of Union.

Q. Did you produce the two weapons in the Committee or the other room?

A. In the other room.

Q. Who deſired you to come there?

A. A lad came to me, I am ſure I could not recollect his name, I produced them in the other Committee, not the Committee of Union.

Q. What do you call the Committee of Union?

A. It was the Sub-Committee. There was Watt, Downie, Bonthorne, M'Ewan, and another man I did not know.

Q. Are you acquainted with Mr Stoke?

A. Mr Stoke was not there, and I omitted that laſt night too.

Q. You ſpeak every thing that is true now?

A. Yes, there was a man there, one Edward Wright, I ſaw giving money to Mr Downie, I could not ſay whether he was

getting or giving, but the one or the other was the tranſaction ; I ſaw money paſſing.

Q. At this Sub-Committee you produced the two weapons ?

A. Yes.

Q. Explain all that was done ?

A. He ſaid it was too ſhort here, (pointing to a particular part.)

Q. Too ſhort where ?

A. Too ſhort in the curve, the name that was given to it, and too ſhort on the other ſide, but of the ſame ſhape.

Q. It was too ſhort in the curve, and too ſhort on the other ſide ?

A. The other man that was there drew one longer at both ends upon a paper, and Mr Watt and Mr Downie both ſaid, you will keep that in your eye and make them in that ſame form.

Q. You were deſired to make ſome more ?

A. They aſked me what would be the price.

Q. Who aſked you ?

A. Mr Watt : after that, Mr Downie ſaid not a word, he ſpoke no more, and the converſation was carried on by Watt ; it was not long, it was a few minutes. Watt ſaid, what is the price of them ? I ſaid, I cannot ſay, I had only made that on the ſtick, and this part of it, I had not made any more of them. I deſired to go out, which I did, and I went into the other room, and he told me, ſays he, you will make a few of theſe, —Mr Watt ſaid,—the word was without any number,—as I ſay,—I had given no price, he likewiſe gave me no number, —he juſt came in when I was going away home, and Mr Downie along with him.

Q. Was Downie with you, when Mr Watt gave you orders to make a few ?

A. Yes, ſays he, make a few.

Q. Where was this ?

A. I was where I was ſent for.

Mr Solicitor General.—It was in the Committee of Ways and Means the pikes were produced, he was desired to leave that, and go to the other, and he was told by Watt, and Downie was with him, to make a few.

Q. Did you set about making them after this ?

A. Some few days after.

Q. You set about executing your commission, in short ?

A. Yes, a few days after.

Q. There was no number mentioned ?

A. No number.

Q. And no price fixed ?

A. There was no price fixed.

Q Did Mr Watt, or any body else, come to you ?

A. Mr Watt did afterwards come to my shop.

Q. You accordingly made them under Mr Watt's order ?

A. Yes.

Q. What did he say ?

A. He asked me if I had made them, or was making them according to his order ; I told him I had begun, but had done very little ; says he, what is the reason ; says I, my servant is gone away from me, and the other lad and I, have other jobs going on.

Q. How many did you make ?

A. The order was given this time.

Q. How many ?

A. Says he, you will make 2 or 3 dozen of the cross pikes.

Q. And did he order any of the plain pikes ?

A. No, not at that time.

Q. Look at these ?

A. Yes, these are the very ones I made.

Mr Anstruther.—*Q.* What was the Committee of Union for ?

A. The Committee of Union I suspected was for no other reason than petitioning Parliament.

Q. Was it not about a Convention ?

A. Yes.

Q. You were to have a Convention, were not you ?

A. Yes, it was always ſaid there was to be a Convention; I never thought it was to be for any thing, but to collect money for the payment of the expences of the delegates, that was all.

COURT.—Were you paid by any body?

A. I was paid, not then; I ſuſpected Watt to be my paymaſter, but M'Ewan came to me that night, and ſaid, I was to be paid by Mr Downie, and he was to pay me the whole I had the commiſſion for, which was 5 dozen; he brought me that word.

Q. Did you ever go to Downie's in conſequence of that order?

A. No.

Q. You made thoſe pikes in conſequence of that order?

A. The only order, when Downie was preſent, was only to make a few.

COURT.—You ſay now to make two or three dozen. Robert Orrock, I beg you will pay attention, for you ſaid only a few.

Q. Did you ever go to Mr Downie?

A. No.

Q. Did you ever deliver any to Mr Watt?

A. No more than the two to the committee.

Q. You were a member?

A. Yes, Mr Watt deſired before I went away; he ſaid, be ſo good as to leave your ſtick, and that weapon with me all night,—that night that Mr Downie was preſent?

Q. Did you leave the ſtick and pike?

A. Yes, I left this and the other one, I never ſaw it after.

Q. Did you ever deliver any other?

A. Never one.

Q. They were ſeized before you delivered your order?

A. He deſired me to leave that with him all night, and the ſtick. I never ſaw him after.

WILLIAM BROWN, *Sworn.*

Mr Anſtruther.—*Q.* Mr Brown, had you ever an order to make any of theſe things?

A. Yes.

Q. Did you ever make any?

A. Yes.

Q. How many did you make?

A. I made 14 of that kind, and one like this.

Q. Shew which?

A. I made 14 of that kind, and one of that, (the ſingle ſpear 14, the other the halberd.)

Q. Did you deliver theſe pikes?

A. Yes, I took them to Mr Watt one afternoon; Mr Watt, when I took them in, told me he was ſorry he had not money to pay me; I told him I was needing the money; he ſeemed as if he would borrow the money—he ſaid Mr Downie would pay me; he gave me a line to Mr Downie to pay me.

Q. How much?

A. 22s. 6d.; that was the price of 14 of theſe, and one of theſe?

Q. What was the plain long ones?

A. 15d.

Q. What was the other?

A. 5s.

Mr Clerk.—*Q.* What was the line?

A. The line was, for Mr Downie to pay me 22s. 6d. and I was to account for it.

Q. Was there no other order?

A. No order what it was for.

Q. Had you any converſation about it with Mr Downie?

A. I am not certain but Mr Downie might have aſked me how Mr Watt was, but there was no altercation between Mr Downie and me. I got the money upon Mr Watt's line.

Q. You did not ſay to Downie what it was for?

A. No, he never aſked me.

Croſs Examination.

Mr Clerk.—*Q.* Did Downie aſk you what the money was for?

A. No, he did not.

Mr Anſtruther.—*Q.* Your evidence is this—Watt gave you an order upon Downie, and Downie paid you the money; is not that it?

A. Yes.

Q. Downie paid you the money?

A. Yes.

WILLIAM WATSON, *Sworn.*

Mr Anſtruther.—*Q.* Do you know that gentleman that is ſitting there between thoſe two ſoldiers?

A. Yes, ſir.

Q. Who is that gentleman?

A. Mr Downie.

Q. Did you ever ſee a paper about the Fencibles?

A. Yes, ſir.

Q. Did you ever ſee that gentleman at Mr Ritchie's ſhop door?

A. Yes, as I was going by.

Q. Where is Ritchie's ſhop?

A. In the Lawn Market. I heard of the paper, and I was anxious to ſee it.

Q. What paper?

A. That paper, an addreſs to the Fencibles.

Q. Is that the paper you were inquiring after?

A. Yes, at leaſt it is the one I ſaw: I aſked him if he could ſatisfy my curioſity to ſee a paper of the kind I had heard of; and he ſaid he could not, but if I would follow him down the ſtreet, he would get me one; and he carried me to Mr Watt's; we went down there, but we did not get it there;

then we went to Mr Kennedy, and the name of Montgomery was upon the door at the South Bridge.

Q. What paſſed there?

A. Mr Downie went into the back ſhop of Mr Kennedy, and a little time after that I followed, and Mr Kennedy gave them me.

Q. Gave you what?

A. Theſe papers.

Q. Was Downie there when he gave them you?

A. Yes.

Q. Tell us how he gave them you?

A Mr Downie, after he gave them me, took them out of my hand, and threw them down upon the floor, for fear any evil might accrue to Mr Kennedy.

Q. What more?

A. He bid me take them up.

Q. Did he ſay any thing elſe to you?

A No, only to ſay I found them.

Q. Was there one or two of theſe papers?

A. No, there was a good number of them.

Q. Was there a good number of them?

A. There was upwards of twenty of them—I did not number them.

Q. For fear any harm ſhould accrue to Mr Kennedy: what did you do with them?

A. I gave them to ſeveral of my acquaintances.

Q. Where?

A. In Dalkeith.

Q. Were the Hopetoun Fencibles there at that time?

A. They were there about that time; whether a ſhort time or not before, I could not tell,

Q. There had been ſome marched through before, had not there?

A. I cannot tell.

Q. It was juſt about the time they were there?

A. Yes.

Q. Were they expected at Dalkeith at that time?

A. They were there about that time.

Q. Do you know a man of the name of Johnſton?

A. Yes.

Q. Did you give him any?

A. I gave him one.

Q. Who elſe did you give one to?

A. I gave one to Elliot.

Q. What did you ſay to him?

A. I don't remember ſaying any thing more; we had ſome converſation about the curioſity of it.

Q. How came there to be ſuch a curioſity about it? are you a Friend of the People?

A. Yes, I was a Friend of the People.

Q. I believe you were Secretary to one of their Societies?

A. Yes, I was Secretary to the Society at Dalkeith.

Q. Did you ſee Downie before?

A. Yes, I ſaw him in the Convention ſome time.

Q. Did your acquaintance commence in the Convention?

A. Yes.

Q. That would be a Society of Friends of the People?

A. Yes.

Q. How came you to think that Mr Downie was likely to ſatisfy your curioſity?

A. I thought poſſibly he might have them.

Q. Does he deal in them?

A. I thought poſſibly, being an acquaintance, he might let me have them.

Q. Did you aſk Mr Ritchie about them?

A. Perhaps I might.

Q. But do you remember you aſked Downie?

A. Yes.

Q. Did you aſk Ritchie?

A. I might have aſked him.

Q. Did you aſk him?

A. I might have aſked him, but I do not particularly remember.

Q. Who did you give it to beſide Elliot ?

A. I gave one to a lad.

Q. And one to Johnſtone ?

A. Yes.

Q. What did you do with the reſt ?

A. There were ſome others got them.

Q. What did you do with the reſt ?

A. After people ſaid they would be hurtful, I deſtroyed the reſt.

Q. You were told they would be hurtful before Downie ſaid they would be hurtful—come, remember yourſelf, who told you they would be hurtful ?

A. I don't remember ; I heard ſeveral people ſpeak about them—they ſaid, the people would ſay, if the Fencibles ſaw them, there would be ſome diſturbance.

Q. Do you know a man of the name of Wright ?

A. No.

Q Did he bring any to you ?

A. No.

Q. And you gave none to him ?

A. No.

Q. Who is Johnſtone ?

A. He is a miner.

Q. Where does he live ?

A. He lives nigh Dalkeith.

Q. A mile or two from it ?

A. A very ſhort way.

Q. Is it as far as it is from the New Bridge ?

A. I cannot poſſibly ſay.

Q. Is it as far as the Croſs ?

A. It is juſt acroſs the river.

Q. Is it half a mile ?

A. Scarcely.

WILLIAM JOHNSTONE, *Sworn.*

Q. Do you know a perſon of the name of Watſon ?

A. Yes, he is a young man of Dalkeith, ſon to Robert Watſon.

Q. Have you ſeen him juſt now?

A. I have ſeen him come out of yon' houſe juſt now.

Q. Did you get a paper from him?

A. Yes.

Q. Is the paper like that?

A Yes, I think it was.

Q. What did he ſay to you when he gave it to you?

A. To the beſt of my remembrance he ſaid I might take a look at it.

Q. Did you look at it?

A. I did.

Q. What did you do with it?

A. I gave it to James Sandilands.

Q. Was there any perſon preſent?

A. I cannot ſay whether there was any perſon preſent or not —it was in the public ſtreet; there might be perſons in the ſtreet, and yet none in company.

Q. Was any man in a red dreſs and philibegs?

A. No.

Q. I believe Lord Hopetoun's is not a highland dreſs?

A. No, I believe it is not.

Q. Were there any ſoldiers there at that time?

A. I don't think but there were ſoldiers in the ſtreet, perhaps there might be ſoldiers within a few yards.

Q. Was there any as near as that gentleman to me with the ſpectacles?

A. I cannot ſay as to the diſtance.

Q. Was it thereabouts?

A. I cannot poſitively aſcertain the diſtance.

Q. Was it 100 yards?

A. Oh! certainly it might be within leſs.

Q. Was it leſs?

A. I cannot aſcertain the diſtance.

Q. Whereabouts was it?

A. I can give yon no regular account.

Q. It was no great diſtance, was it?

A. No very great.

Q. What did you ſay to Sandilands?

A. I ſaid he might take a look at it.

Q. No more?

A. I cannot remember.

Q. Now do recollect yourſelf?

A. I have thought of it again and again.

Q. Are you ſure you ſaid no more to him?

A. It might eſcape my memory, becauſe I did not charge my memory with it.

Q. What did Watſon ſay when you took the paper?

A. I don't recollect.

Q. What was you to take a look for?

A. It was not mentioned.

Q. Are you a member of the Friends of the People?

A. No, I never was.

Q. Do you know whether Sandilands can read?

A. I ſuppoſe he can.

Q. Do you know he can?

A. I cannot aſcertain as to that.

Q. (Sandilands was brought into Court,)—Is that the man you gave it to?

A. Yes, ſir.

JAMES SANDILANDS, *Sworn.*

Q. Do you know that man that is juſt gone out?

A. Yes.

Q. Did he ever give you a printed paper?

A. Yes.

Q. Did you read it?

A. No, I never did.

Q. Who did you give it to?

A. Serjeant Hardy.

Q. What is your name?

A. James Sandilands.

Q. What are you?

A. A miner.

Q. What is Hardy?

A. He is in Lord Hopetoun's Fencibles.

Q. What diſtance was Johnſton when you ſaw him?

A. About that diſtance.

Q. What did Johnſton ſay?

A. He ſaid he thought Serjeant Hardy would look at that paper. I took it out of his hands, and I ſaid I had no doubt he would; I took it out of his hands, and gave it into the ſerjeant's hands.

Q. Did you go any diſtance to give it to the ſerjeant?

A. Juſt about the diſtance of you and I.

Q. And Johnſton was juſt by you?

A Yes, Johnſton was juſt by my back when he gave it me.

SERJEANT HARDY *Called.*

Q. (to Hardy.) Do you know that perſon, Hardy?

A. Yes.

Q. (to Sandilands.) Is that the man you gave the paper to?

A. Sandilands.—Yes.

SERJEANT HARDY, *Sworn.*

Mr Anſtruther.—*Q.* What are you, Mr Hardy?

A. A ſerjeant in Lord Hopetoun's Fencibles.

Q. When was your regiment paſſing through Dalkeith?

A. The 12th of May laſt.

Q. Did you ſee that man there?

A. Yes.

Q. This Sandilands?

A. Yes.

Q. Did he give you that paper?

A. No this is not the paper, (another ſhewn him.)—This is the paper.

Q. Did Sandilands give it you?

A. Yes.

Q. Did you ſee who Sandilands got it from?

A. No.

Q. What ſaid Sandilands?

A. He aſked me to look at it; I did; and I aſked him where he got it; he did not recollect the man's name; he ſaid there were meetings of ſeditious people in Dalkeith, but he never went near any of them.

Q. Where were you going to at that time?

A. We were on our march to England.

Q. Your regiment had conſented, and agreed to go to England at that time?

A. Three hundred of them.

BARTHOLOMEW O'CONNOLLY, *Sworn.*

Lord Advocate.—*Q.* What regiment are you in?

A. The 7th regiment of Fencibles.

Q. Who commands them?

A. The Earl of Hopetoun.

Q. Were you in the village of Dalkeith lately?

A. Yes.

Q. Was the regiment there?

A. Yes, part of the regiment.

Q. What time?

A. I don't remember what day.

Q. Was it two or three months ago?

A. Yes.

Q. Did any body give you any printed papers there?

A. No, my Lord; a man came up and ſaid, is there any of you for England? He ſaid, if you are, ſaid he, I would adviſe you not to go, for you will be all ſold to go abroad.

Q. Did any body give you any printed paper to read, or ſhew it you?

A. No, he ſaid if you don't believe that you are, there is a printed paper to vindicate that you are.

Q. Did you read that paper?

A. No, my Lord, I did not, only I ſaw at the foot of it there was Dundee.

Q. What did you do with it?

A. He put it into his pocket, I did not take it in my hand.

Q. Did you refuſe it?

A. I did not refuſe it, but I had not time, I was within two minutes of relieving guard, and was obliged to go.

ARCHIBALD M'FADZEAN, *Sworn.*

Lord Advocate.—Speak out.

Q. Pray what regiment are you of?

A. The South Fencibles.

Q. Is that Lord Hopetoun's?

A. Yes.

Q. Where are you at preſent?

A. At Liverpool.

Q. Do they know the village of Dalkeith?

A. Yes.

Q. Were you there on your march to England?

A. Yes, on going to England in May laſt.

Q. Had you any converſation in that place relative to your march to England?

A. Yes, ſir,—one day as I was walking, a gentleman came up to me, and offered me a paper.

Q. Was it printed?

A. Yes.

Q. Did you read that paper?

A Yes, two or three read it.

Q. Did any body elſe read it?

A. Yes, John Geddies did; I took no thoughts about it at that time, it was ſigned Dundee.

Q. Was it adviſing you to go to England, or diſſuading you from going to England?

A. It told us we were all ſold if we went to England, if we ſtaid at home we ſhould get thouſands to help us.

Q. Can you read?

A. No, ſir, I cannot.

Q. Who read it to you?

A. Another chap read it to me.

Q. Is he here?

A. No, he is at Whitehaven.

JOHN GEDDIES, *Sworn.*

Lord Advocate.—*Q.* What regiment are you in?

A. Lord Hopetoun's.

Q. Do you know the town of Dalkeith?

A. Yes.

Q. Where is your regiment quartered at preſent?

A. In Liverpool.

Q. Were you in the town of Dalkeith with your regiment when it marched to England?

A. Yes.

Q. When was that?

No anſwer.

Q. Do you know Archibald M'Fadzean?

A. Yes.

Q. Had you any converſation with any body in Dalkeith about your regiment going to England? Did any body ever ſhow you a paper about it?

A. No.

Q. Did any man ſhew you a paper?

A. I ſaw a man in the ſtreet with them.

Q. What did the man in the ſtreet do with them?

A. I ſaw him giving them out to the ſoldiers.

Q. What did it mean?

A. I went into Archibald M'Fadzean's quarters, and I found him reading it.

Q Was he reading it?

A. Yes, and ſome more.

Q. Who more?

A. Some of our own men.

Q. Do you remember the purport of it?

A. Yes, it was adviſing us not to go to England, and if we ſtood back, we ſhould get thouſands to aſſiſt us.

Q. Do you remember any particular expreſſions in it?

A. I remember a paragraph at the latter end.

Q. What was it?

A. "Stay at home, O! Dear Brothers, be adviſed and ſtay at home."

Lord Advocate—This is the identical paper Hardy ſwears he received from Sandilands, which is now to be read.

It is dated Dundee, April 12, 1794.

'*Friends and Brethren*,

"It is with the greateſt pleaſure that your countrymen are informed, that ſuch is your attachment and love to them, and your native country, that you manfully and firmly reſolve, not to leave it upon any terms, contrary to thoſe upon which you were at firſt engaged. Your Countrymen love you, and our hearts would be as much wounded to part with you, as yours would be to be ſeparated from them. They well know that they are ſafe under the protection of their fathers, their ſons, their brothers in arms, and they neither wiſh nor deſire any other defenders. They hope andbelieve, that your hearts are filled with the ſame ſentiments.

"The great maſs of the people, from among whom you have been inliſted, have been repreſented to you as your enemies: believe not the aſſertion. They have been taught to conſider you as foes: but they do not fear finding friends amongſt their brethren.

"Their cauſe and yours is the ſame. They are poor, but they have honeſt hearts—hearts which ſympathize in your cauſe; they look for the ſame friendſhip, and the ſame ſympathy in you.

"They rejoice to hear, that you are becoming daily more convinced of the great truth—that the law ought to be the ſame to the Highlander and to the Lowlander, to the rich

and to the poor, and that no man can be compelled to take up arms by any authority whatſoever, unleſs his own inclinations prompt him to do ſo.

" This truth has been hitherto carefully concealed from you, but it is not the leſs certain. The will of your Laird cannot, without your own conſent, ſeparate you from your families and friends, although many of you may have experienced the exertions of ſuch a power, however unjuſt, and however contrary to law.

" We reſpect, and admire the principle which induces you (though neceſſity has compelled you to take up arms) ſtill to perſiſt in remaining to defend your friends at home, and not quit a country which holds pledges ſo dear.

" When you are gone,—Where is their defence? they may be either left without protection, or may ſoon ſee their country over run by foreign troops, ſuch as, in time paſt, have already ſhed the blood of your anceſtors without provocation, and without remorſe, and who would feel, perhaps, as little compunction in ſhedding theirs.

" Prepared for every deed of horror, theſe foreign mercenaries may violate the chaſtity of your wives, your ſiſters, and your daughters; and, when deſire is ſatiated, cruelty may reſume its place in their hearts, as experience has too well, and too fatally ſhewn, and friends, parents, children, brothers, may be involved in one common ſlaughter.

" The cruel maſſacre of Glencoe cannot yet be forgotten; are there not among you, whoſe forefathers periſhed there? their hearts, throbbing with kindneſs and hoſpitality, were pierced with the daggers of their treacherous gueſts, and the feaſt prepared by the hand of unſuſpecting friendſhip, was cloſed with a ſcene of blood! Such is the return for kindneſs and hoſpitality! Such the protection your families have to expect!!!

" How will they then look around in vain for your protecting care, when, perhaps you are fighting at a diſtance in a Foreign Land—but they hope you will not forſake them—Stay, Oh! ſtay, and defend your families, and your friends!

" For that purpoſe alone you were enliſted. They are ready to come forward for you in the vindication of your Rights.

" Thouſands join in the ſame ſentiments with you, and ardently wiſh for your continuance among them. The circumſtances which might require you to quit your country have not yet taken place. No invaſion has yet happened—You cannot be compelled to go—leave not your country,—aſſert your independence;—your countrymen will look up to you as their protectors, and guardians, and will, in their turn, lift up their arms to protect and aſſiſt you."

JOHN FAIRLY, *Sworn.*

Lord Advocate—Where did you commonly reſide?

A. In Broughton.

Q. Do you know a man of the name of George Roſs?

A. Yes, I have a little acquaintance of him.

Q. Where did he live laſt ſpring, before you were taken into cuſtody?

A. In the Cowgate, I believe.

Q. Near the South Bridge?

A. Yes.

Q. Did his houſe enter from the South Bridge?

A. Yes, it enters both from the Cowgate and South Bridge.

Q. Do you know of any Committee being held in that man's houſe laſt ſpring?

A. There was a Committee of Collectors which met there.

Q. Were you a member of the Britiſh Convention?

A. Yes.

Q. Of courſe of the Society of Friends of the People?

A. Yes.

Q. Did your Society ſend any delegates to the Committee of Collectors?

A. Yes.

Q. So you were a Collector?

A. Yes.

Q. Do you know of any other Committee of Collectors?

A. The Broughton Society appointed ſome members to a Committee of Union, which met there.

Q. Were you a member of that Committee of Union?

A. No, I was not.

Q. Do you know of any other Committee that met there beſide that Committee?

A. There was another Committee appointed by that Committee, but I was not a member of it.

Q. Were you ever with that laſt mentioned Committee, in company with them?

A. Yes.

Q. Who were the perſons you ſaw in that Committee, and whom you underſtood to be members of it?

A. I have ſeen Mr Watt, Mr Bonthorne, Mr M'Ewan, and Mr Downie.

Q. What is he?

A. I believe he is a jeweller.

Q. Would you know him again if you ſaw him?

A. Yes I think I would.

Q. Is that him behind you there?

A. Yes, I think it is.

Q. Was there any body elſe in that Committee?

A. I once ſaw Mr Stoke there.

Q. Mr Stoke, what is he?

A. I don't know what he was; he was a ſtudent, I believe.

Q. Were you ever employed by that Committee on any occaſion?

A. I was twice or thrice.

Q. In that in which the Collectors were?

A. In the Committee of Collectors, it was moved, I don't remember by whom, that ſubſcription papers ſhould be gotten.

Q. That ſubſcription papers ſhould be gotten?

A. The Committee wanted me to get theſe papers, and I

went and told the Committee, and I got the papers, and went on one night, and told them I had got it; I was on another night there, and told them we had chosen a preses.

Q. Who was that preses?

A It was myself.

Q. Was this the Committee of Union, or the other Committee?

A. It was the other Committee.

Q. Did you ever hear any other name given to that Sub-Committee, than what you have just now stated?

A. They call them a Sub-Committee, and a Committee of Ways and Means.

Q. Did the Committee of Ways and Means ever employ you in any other business?

A. They never employed me in any other business; I don't recollect any other business.

Mr Anstruther.—If what you said the other day be true, you will tell it over again to these gentlemen?

A. I was going to the West country to see a friend I had in the West country, and I heard some person saying, after I came from Airth, they had a letter for Borrowstounness; I replied I was going to Borrowstounness; he said, would I take it?

Q. He asked if you would take a letter; who was that person?

A. Mr Bonthorne; the next day I called on Mr Watt, and told him that I had a letter to go with; that I was not going away until the afternoon: if he had any thing, he must come to the hat-makers at the Luckenbooths; I came to Watt's again, and he asked me if I had got a parcel; he said I could get it at Mr Campbell's, the hatter, at the Luckenbooths. I had a letter from Mr Bonthorne to Mr Watt, and Watt gave me a letter to Mr Downie, and I got from Mr Downie, 30s. and took my parcel with me.

Q. Was the parcel tied up?

A. It was packed up.

Q. Did you look what was in the parcel when you went to Campbell's ſhop?

A. No, not till I came to the Queen's Ferry.

Q. What did you find?

A. There were ſome letters to the Societies, and the inſtructions of the Committee.

Q. That r Watt directed you to go to Mr Campbell, the hatter, and you would find the letter, and directions what to do with it?

A. I would know what to do with it.

Q. Did you go to Stirling and Falkirk?

A. Yes.

Q. What were the inſtructions?

A. He deſired me to go to Mr Downie, and ſend money to them, and the inſtructions were, to correſpond with Mr Downie, and alſo to inquire the number of patriots in each place, and to ſend money to Downie.

Q. Was any thing elſe in the inſtructions?

A. There was ſomething about a plan, but I don't recollect the exact words.

Q. Recollect yourſelf, what was it?

A. A plan about ſomething.

Q. You talk about papers and regulations for the Society, and circular letters, were they printed or written?

A. Printed.

Q. Was the commiſſion printed?

A. No, it was in writing?

Q. Were there ſeals to it?

A. No.

Q. You ſaid there was ſomething about a plan; had you any converſation with Watt, or Downie, or Stoke, about a plan?

A. I never had any converſation with Downie or Stoke, but Watt ſpoke to me.

Q. What was it?

A. Something about impriſoning the Magiſtrates, and ſeizing the Bank and public Offices.

Q. And what elſe?

A. And thoſe moſt active againſt the people, or ſomething of that ſort.

Q. What was to happen to them?

A. They were to be impriſoned.

Q. Was there any thing elſe in it?

A. They ſpoke ſomething about ſending couriers to the country, to tell what was done.

Q. What was done?

A. Why about ſeizing them things.

Q. Thoſe perſons you mean?

A. Both perſons and things.

Q. Was there any thing about that plan in the paper of Inſtructions?

A. It did not ſay what plan.

Q. What did you underſtand by that word in the paper? What plan did you think it was, upon your oath?

A. It might be that—I cannot ſay.

Q. You went to the Queen's Ferry?

A. Yes.

Q. Where next?

A. To Stirling.

Q. Did you ſhew the Committee's Inſtructions to any body at the Queen's Ferry?

A. Yes.

Q. Where did that friend live that you were going to ſee?

A. It was a ſiſter of mine who lived in ſervice at Airth, on the other ſide of the Water.

Q. Did you go to Stirling?

A. Yes.

Q. Were you acquainted with any body in Stirling?

A. I called upon Dr Forreſt; I heard of him, but I had no acquaintance with him.

Q. From whom did you hear of him?

A. I have heard of him different times at Edinburgh, as being a friend of the people at Stirling.

Q. Did you go to Airth?

A. Yes.

Q. Were you at Borrowſtounneſs?

A. I did go to Borrowſtounneſs as I came back; I went to ſee the place; I did not leave any thing there?

Q. Did you go to ſee any body there?

A. I had no letters for Borrowſtounneſs, I had no directions to open it there.

Q. You never ſaw Doctor Forreſt before that, you heard of him as a friend of freedom?

A. Yes.

Q. From whom did you ever hear it?

A. I cannot ſay.

Q. Did you ever hear of him in the Committee of Ways and Means?

A. No, I cannot ſay.

Q. Did you ſee Dr Forreſt?

A. Yes, I did.

Q. And what paſſed between you and the Doctor. Now Sir, you ſaid, that you would tell him the news of Edinburgh, and he would tell you the news of Stirling?

A. Yes.

Q. Now, what was the news of Edinburgh?

A. I do not recollect, but I ſhewed him the paper of regulations, and the circular letter I brought with me, and the paper of inſtructions of the Committee.

Q. Now, did you aſk the Doctor to introduce you to any more of the friends of freedom there?

A. I believe I did,—there were two or three came to his houſe.

Q. Do you remember the names of them?

A. I think there was a man of the name of Thompſon.

Q. Was there any particular converſation paſſed between you and theſe friends of Dr Forreſt,—tell the Jury what the ſubject of your converſation was?

A. I cannot tell what the ſubject was; I had a copy; I

would tell them that they were about to make pikes in Edinburgh, or ſomething of that kind.

Q. You rather think you did that?

A. Yes, I think I did.

Q. What did thoſe gentlemen ſay to you when they heard about making pikes at Edinburgh?

A. They told me that the Society at Stirling was not ſo numerous as it once was; but what they ſaid when I told them about the pikes, I do not recollect.

Q. Did they ſay any thing elſe about the ſtate of the friends at Stirling?

A. I rather think they ſaid they were willing to contribute money, but they could not do any thing elſe.

Q. What elſe did you underſtand by this anſwer?

A. I remember they were ſaying that; I underſtood that they meant they were not numerous, there were many of them there.

Q. Is that what you underſtood by the word elſe?

A. Yes, they ſaid we could expect no other ſupport but money.

Q. Were they happy when they heard pikes were preparing, or were they ſorry?

A They did not ſay whether they were happy or ſorry.

Q. Did they approve, or diſapprove?

A. No, they did not.

Q. They ſaid nothing about it?

A. Not that I recollect.

Q. How long did you ſtay with Dr Forreſt after telling him about the pikes?—Did you deſcribe the kind of pikes to Mr Forreſt?

A. I think I drew a draught of one.

Q. You drew a draught of one—Was it like them on the table?

A. Yes.

Q. Where had you ſeen thoſe before?

A. I had never ſeen any before; I had heard them deſcribe it.

Q. Who deſcribed it to you?

A. I have heard them deſcribe it. I recollect I had drawn a draught of ſome before this? and gave it to Watt.

Q. Where was this? at Edinburgh, or Broughton?

A I cannot ſay where I drew the draught, but I gave it to Mr Watt; I ſketched one on a ſlate, becauſe Mr Watt deſired me; then he ſaid I would do it upon a bit of paper, and I did do it.

Q Would you know that paper again if you ſaw it: look at that?

A. I think that is it.

Q. Who was it that deſcribed it to you;

A. I had ſeen them of that ſort before.

Q. Where?

A. I think the ſerjeant's halberds are ſomething like that.

Q. Did Watt tell you for what purpoſe he wanted thoſe things?

A. He ſaid the pikes were intended for ſelf-defence.

Q. You drew this to Dr Forreſt at Stirling?

A. Yes.

Q. You don't recollect whether he was glad or ſorr or approved or diſapproved?

A. No.

Q. Where did you go the next day?

A. To St. Ninians?

Q. Were you acquainted with any body there;

A. No.

Q. Who did you ſee there?

A. Mr M'Croſs, and Mr Brown.

Q. What is M'Croſs?

A. A miniſter of Relief.

Q. What is Brown?

A. A writer.

Q. Did you know thoſe before

A. No.

Q. How came you to call upon them? Did you ſhew them your inſtructions, or did you leave them the printed papers?

A. Yes.

Q. Did you tell them any thing about the pikes?

A. No, I don't think I did.

Q. Where did you go then?

A. To Kilſyth.

Q. Whom did you ſee there?

A. Mr Anderſon, and Mr Yule; Anderſon is a miniſter, and Mr Yule is a miniſter.

Q. Where did you ſee them?

A. I took them to Mr Anderſon, and he took them to Mr Yule.

Q. Did you leave the printed papers with them?

A. Yes.

Q. Where next?

A. To Campſie. Mr Yule went with me—I don't know to whom.

Q. Did you leave papers there?

A. Yes.

Q. Did you ſhew them the pike?

A. I don't recollect. I went to Kirkintulloch; Thompſon went with me to Kirkintulloch.

Q. Did you ſhew him your bundle?

A. Yes.

Q. Where then?

A. Then I went to Glaſgow.

Q. Where did you call there?

A. On Mr Sinclair, a reed-maker.

Q. Was Sinclair a member of the Convention?

A. I don't know.

Q. Did he take you under his protection?

A. He was not at home when I went there, and I went into the Reading room.

Q. What is the Reading-room?

A. It is where pamphlets and newſpapers are read.

Q. Did you ſee any body in the reading-room you never ſaw before ?

A. I dare ſay I ſaw ſeveral ; I came back with Mr Sinclair ; I gave Mr Sinclair a copy.

Q. Were any of the perſons whoſe faces you recognized in the reading-room ; were any of them members of the Britiſh Convention ?

A. I did not know them, there were none that I knew ; I ſaid there were none of their faces that I knew.

Q. Did you go any further o the weſt.

A. I went to Paiſley.

Q. Who did you call on there ?

A. Mr Haſtie.

Q. Did you leave any papers ?

A. Yes.

Q. Did you go further Weſt ?

A. No.

Q. Then you came home ?

A. Yes.

Q. Where did you go firſt ?

A. Firſt to my father's, and then to the Committee at Roſs's.

Q. Was it the Committee of Ways and Means, or the Sub-Committee ?

A. Some call it one way, and ſome the other,—it was Committee night.

Q. Did you find any members of the Committee there ?

A. There was Watt, M'Ewan, Downie.

Q. Did you ſtate any thing to the Committee with reſpect to the places where you had been, or with reſpect to the nature of your journey ?

A. I don't remember the particulars of what I ſaid.

Q. I aſk you in general ?

A. I told them that the friends were in general hearty.

Q. What did the Committee ſay to that, were they happy or ſorry, did they appear to approve ?

A. I did not mind either.

Q. Was Downie there? Did you give them back any of their papers?

A. No, I did not.

Q. Did you give them back?

A. I gave them back ſome days afterwards.

Q. Did you take any notes?

A. I took down ſome names of the people I called at as I went along.

Q. What became of that paper?

A. I gave that to Mr Watt too.

Q. Did you read that, or ſhow it to the Committee that night?

A No,—I believe not, I do not recollect.

Q. Did you communicate any further particulars to the Committee?

A. I am ſure I cannot ſay, except telling them they were hearty.

Q. Did you pay the expences of that journey out of your own earnings, or out of your own pocket?

A. No, I did not.

Q. Who defrayed the expences.

A. I got a letter from Mr Bonthorne to Mr Watt, and he gave me a line to Downie, and Downie gave me 30s.

Q. Did you ſpend all the money in your journey?

A. No, I ſpent 15s. of it.

Q. What did you do with the reſt?

A. I gave it to the Committee, and they gave it me back again.

Q. Was Downie there?

A. I believe he was.

Q. Whoſe money was it, Mr Fairly?

A. I ſuppoſe it was the Committee's.

Q. Who was the treaſurer of that Committee?

A. I have heard ſay Mr Downie was, but I was not at the appointment of the treaſurer.

Q. How long did you ſtay with your ſiſter at Airth?

A. I ſtaid there all the afternoon.

Q. Did you ſtay there all night?

A. No, I did not.

Q. What time did you get there?

A. I got there about mid-day.

Q. What time did you leave it?

A. I fancy it might be about 6 o'clock.

Q. What made you not come back again, after you had ſeen your ſiſter?

A. I wanted to ſee the country.

Q. How came you not to go and ſee the county of Fife, as well as Lanarkſhire?

A. I went to ſee my ſiſter.

Q. Stirling is a little farther off than your ſiſter's?

A. Yes it is.

Q. How came you to go a little further after you had ſeen your ſiſter?

A. As I had the things, I juſt went along with them.

Q. But why did not you go along with them to Fyfe as well as to Stirlingſhire?

A. I was near Fyfe.

Q. Was not you as near to Glaſgow?

A. I had no particular reaſon for it, except it was to go and ſee them.

Q. Is it a common thing to take a long journey when you go to ſee your ſiſter?—you took a journey to Kilſyth, Kirkintilloch, Glaſgow, and Paiſley?

A. I cannot ſay.

Q. How came this Committee to pay you for all this journey?

A. Becauſe there were ſubſcriptions going on for thoſe that ſuffered lately, and I told them to ſend money to the Committee.

Q. Whoſe buſineſs was this you were going about when you went this journey,—was it your own buſineſs, or the Committee's.

A. It was the Committee's buſineſs.

Q. How did you know the Committee had any buſineſs at Glaſgow?

A By my commiſſion; I was not confined; I had liberty to go where I liked—I might go to Borrowſtounneſs, and Glaſgow.

Q. The inſtructions ſaid, go to Falkirk, Borrowſtounneſs and Stirling?

A. Yes.

Q. Then how came you to explain the S——g, and the other letters with blanks, to me, that it meant the three other places?

A Becauſe there were ſocieties there.

Q. What ſort of ſocieties?

A. The Friends of the People.

Q. Then you thought yourſelf at liberty to go to any other place where there were Friends of the People?

A. Yes.

Q. It was but reaſonable, to be ſure, the inſtructors ſhould pay you; tell me how you got the commiſſion, and what was in it?

A. It was juſt telling me to call at the Societies.

Q. What did it ſay?

A. It ſaid the Committee authorized me to call at thoſe places.

Q. You ſaid you found in Stirling they would give you ſupport by money, but would not give you any thing elſe, they were not ready for any thing elſe?

A. They would give ſupport by money, but nae other way.

Q. What do you mean by nae other way?

A. That they were not numerous, and that—

Q. But a few people could give you ſupport; it might not be very good ſupport—they might give you ſupport by ſomething elſe beſides money,—what did you mean by ſomething elſe?

A. I do not know; I had juſt aſked them.

Q. Were your inſtructions, as well as your commiſſion, from the Committee?

A. I think it mentioned about the Committee, I cannot mention whether it was the Committee or not.

Q. Recollect whether your inſtructions mention it?

A. They do mention it.

Q. They mention ſomething about a plan?

A. O, aye.

Q. What did it mention about that plan?

A. It mentioned ſomething about that plan.

Q. Was it a little plan?

A. I have anſwered that queſtion to the Lord Advocate.

Q. Was it a great plan, or a grand plan, or little plan, or what did they call it?

A. No particular name—they might ſpeak of it, I believe.

Q. What was that plan to do?

A. It did not ſay what it was to do.

Mr Anſtruther.—He has ſaid he underſtood the plan to be the ſame plan that is mentioned by Watt.

Q. What was the plan to do?

A. I can tell you what Mr Watt ſaid it was to do.

Q. What did your inſtructions tell you? Did it ſay it was near finiſhed, or that it was far from being finiſhed?

A. I think the word finiſhed was in it.

Q. Did it ſay any thing like it was far, or not far from being finiſhed?

A. I cannot give the expreſs words.

Q. Give me the ſame?

A. It ſpoke ſomething about that plan.

Q. About what plan did it ſpeak?

A. It did not mention the plan; I ſaid I ſuppoſed it might be that.

Q. Now, did it ſay that plan was to be attended with ſucceſs, or want of ſucceſs?

A. I cannot ſay things—I did not mind.

Q. Who were you to give your inſtructions to when you returned?

A. The Clerk of the Committee of Ways and Means, when I came back.

Q. I think you ſaid you were permanent preſes of the Collectors?

A. Yes.

Q. What were they to do?

A. To collect money and ſentiments.

Q. Were they to do any thing elſe?

A. To ſee who were determined to ſupport the burthen in the cauſe of univerſal ſuffrage, and annual Parliaments.

Q. To whom did your inſtructions tell you, you were to ſend the money?

A. The inſtructions ſaid the money was to be returned to Mr Downie.

Q Did you ever hear any thing about arming?

A. Mr Watt and I ſpoke about pikes two or three times.

Q. Well, now, what were the Collectors to do with thoſe pikes, or had they any thing to do with them?

A. Mr Watt once ſhewed me ſome of them, and ſaid he would give me ſome of them to ſhew to the Collectors.

Q. Did you take them?

A. No, I did not.

Q. Why did you not take them?

A. I did not want to take them down to the Collectors.

Q Why did you not like to take them?

A. Becauſe none of the Collectors had ſaid they wanted them.

Q. As Watt ſaid, take them down to the Collectors, why did not you take them?

A. If I had taken them down to the Collectors, they would have been blaming me for diſtributing them.

Q. You ſupped with Dr Forreſt that night?

A. Yes.

Q. You ſtaid with him after the company came away?

A. I recollect I told Dr Forreſt firſt ſomething about that plan.

Q. Now what did you tell Dr Forreſt?

A. I told him what I told you.

Q. Did you tell him ſuch a plan exiſted?

A. I ſaid I had heard it; I had never heard it from any body in the Committee but Mr Watt.

Q. Look at that?

COURT.—What is that paper?

Mr Anſtruther.—He has read this, "Stirling,—ſupport by money, courage not great, ſupport as yet not certain"

COURT.—*Q.* What paper is that?

A. A liſt of names I took with me.

Q. What for?

A. For the purpoſe of correſponding.

Q. Who was you to correſpond with?

A. With the Committee of Ways and Means.

Q. Were the Committee of Ways and Means to correſpond with all theſe people?

A. I cannot ſay whether they would or no, but they had the particular power.

Mr Anſtruther.—*Q.* Why did you leave a blank there in the firſt line,—does S——g mean Stirling?

A. I left a blank.

Q. Becauſe what?

A. I had a liſt of the names, I did not expect any body to ſee it, but I did it juſt for fear any body ſhould ſee it.

Q. Does c——ge mean courage? and why did you leave a blank there? you had not courage to fill it up, perhaps?

A. Yes, but I wanted nobody to read it but myſelf.

Q. I thought you ſaid you made this up for the uſe of the Committee?

A. Well, but I had it to read:—the Committee did not deſire me to write that about Stirling, I gave it in to Mr Watt.

Q. Did you give it to him as one of the Committee?

A. I gave it to him as one of the Committee.

Mr Cullen.—When did you give it to Mr Watt?

A. Some days after I came home, I gave him my inſtructions and commiſſion ſometime after I come home.

Mr Anſtruther.—*Q.* You were ordered to deliver them to the Committee?

A. Yes.

Q. Did you inform the Committee of what you had done in your journey?

A. I told them that I had collected at ſuch and ſuch places, and they were in general in good ſpirits.

Q. You did not ſay that about Stirling ſurely?

A. I did not ſay that about Stirling: I might ſay, at Stirling the ſociety was not numerous.

Croſs Examination.

Mr Clerk.—He cannot ſay whether the Committee knew any thing about the inſtructions, yea or nay.

Q. What did you ſay when you went in?

A. I had been in once or twice before, and I juſt told them what I have ſaid already.

Lord President,—I have taken down what he ſaid about theſe inſtructions, in this manner, that his inſtructions were from the Committee, and that he was to return them to the Clerk of the Committee.

Mr Cullen.—As I underſtand it, the inſtructions were to be from the Committee, they were ſo expreſſed, but not given by the Committee; they were therefore no further from the Committee than Mr Watt gave them to him as from the Committee.

Mr Clerk.—He could not ſwear whether the Committee knew any thing about it.

(Paper read.)

"S——g, ſupport by money—c——ge not great—ſ——pt as yet not certain."

"Addreſs of a citizen in Alloa, James Haig, merchant.

"Kincardine, George Miller, ſhipmaſter.

"Alloa, Robert Morriſon, ſenior, weaver.

"Crieff, James M'Ilveeade, merchant.

"Falkirk, John Heugh, merchant, corn-monger.

" St Ninians, George Brown, writer.

" Ditto, Rev Mr Croſs.

" Linlithgow, Mr Gilſon, jun. merchant.

" Borrowſtounneſs, William Baird, ditto.

" Buckhive, Walter M'Gibbon, merchant.

" Inverkeithing, John Grieve, ſurgeon.—Sir John Henderſon.*

" Kinroſs, William Hutchinſon, Eſq; of Annsfreugh.

" Kirkintulloch, Henry Freeland, weaver.

" Bathgate,—informed Linlithgow.

" Kincaid Printfield, John Thompſon.

" Kilſyth, Mr Charles Yule.

" Paiſley, Mr John Heming.

" Kilmarnock, Mr Muir, jun. merchant.

" Levenſide, James Gardner, ſmith, near Rantors.

" John M'Arthur, ſhoemaker, New Meeting-houſe, Dumbarton.

" Roderick Gordon, engraver, near Bankhill.

" Linlithgow, Adam Dawſon, certain friend, but not proper object of correſpondence.

" Mid-Calder, John Hardie, or Thomas Tweedal.—Shotts, William Morton, taylor.

" Hamilton, John M'Lawn, James Hamilton.

" Strathaven, James Wilſon.

" Whitburn, George Weddel merchant.

" Dervil, John Cleland.

* The publiſher is informed, that this witneſs, Fairley, having been lately ſummoned at Sir John Henderſon's inſtance, to appear before the Sheriff of Edinburgh, and being duly ſworn and interrogated, did in ſubſtance depoſe, " That he had no acquaintance with Sir John Henderſon : that he even did not " know him by ſight ; that he had put Sir John's name as well as Mr Grieve's " in this liſt, on no better authority than the ſuggeſtion of ſome perſon or o- " ther, who had told him they were friends to reform : that he could not re- " collect the perſons name who told him ſo ; and, finally, that ſuch was the " ſole reaſon or cauſe which he had for inſerting theſe names in his liſt." The publiſher is further informed, that this depoſition is put on record in the regiſter of probative writs at Edinburgh.

" Glaſgow reading room.—Thomas Corbet wants a few " cheap books or pamphlets.

" Mrs Galloway—high ſtreet Glaſgow—wants a dozen of Loves of Liberty."

Q. Is that one of the papers that were in your parcel?

A. Yes, that is one of the papers.

(Paper read.)

" Fellow Citizens,—At a time when power ſeems to be making ſuch rapid ſtrides among us, while the friends of Freedom are perſecuted, and hunted down on every ſide, and the genuine principles of the Conſtitution repeatedly violated, by thoſe who, at the time they are profeſſing their attachment to it, are aiming the ſecret blow which undermines it, the friends of peace and reform in Edinburgh, call upon their brethren throughout the kingdom :—We call upon you to warn you of your danger :—We would remind you of the preſent melancholy ſtate of affairs; our commerce diminiſhed, our manufacturers drooping, the induſtrious poor wanting bread, and the mingled cries of the widow and orphan aſſailing the ears of Heaven.—Theſe, theſe are only a part of the cruel effects of this moſt diſaſtrous and bloody war, the end of which is wrapped up in a gloomy obſcurity, which has ſcarcely one ray of hope to penetrate or illumine.

" In the mean time, we behold armed aſſociations forming in different parts of the country.—We ſee the partial ſelection of citizens, who are entruſted with arms, and ſhudder in contemplating what may be the motive of this alarming and novel prudence.

" Under theſe circumſtances, what is our reſource? Citizens, there is but one thing that can reſcue us, a complete reform in Parliament. Let us not be awed into a ſervile ſubmiſſion by any illegal artifices; let us not ſink before the blaſt of oppreſſion; but let us unite firmer than ever, and the number of voices, that call for a redreſs of our grievances, ſhall yet be heard. But never let us relinquiſh this great work.

" Remember, that till we are fairly repreſented, no check can ever be oppoſed to the ſtrides of power, but we may be cruſhed beneath its weight, like a worm beneath the foot of the paſſenger.

" In the mean time, we ſend you a few rules, which are drawn up for the uſe of our own ſocieties; we recommend them to you, and hope they will be equally ſerviceable. A Committee of Union is appointed here, to expreſs the united wiſhes of the ſeveral ſocieties; and a Sub-Committee, which is called the Committee of Ways and Means, and as treaſurers for the united ſocieties, and as a centre of Union for all friends in Scotland. Through their medium, directions and inſtructions will be given. The money put into their hands ſhall be accounted for, and diſburſed in ſuch a way as ſhall be moſt calculated to promote our great cauſe. If, therefore, you have any ſums collected, beyond what your immediate exigencies require, or if you can collect any among your friends, though they ſhould not be members of Societies, you are requeſted to remit the ſame to Mr Edinburgh, who is appointed to receive the ſeveral ſums for the Committee.

" We would alſo wiſh to be informed of the number of friends which you have, on whoſe patriotiſm you can rely, with the moſt implicit confidence, and who, you are ſure, will ſpare no exertion whatever, in promoting the great cauſe in which we are engaged.

" We would thank you to communicate the beſt method of making our mutual ſentiments known to each other, and the perſon to whom our letters may be addreſſed, with the greateſt ſafety---Direct your letters, as above, for Mr : we beg for an anſwer with all convenient ſpeed, and remain

Your Brethren and Fellow Citizens,
The Committee of W. and M.

Lord Advocate. There are only one or two paragraphs we mean to trouble the Court with.

Witneſs.—There are ſome blanks in that paper that were not filled up in the paper that I took.

Mr Anſtruther.—Who did your inſtructions deſire the money to be ſent to?

A. My inſtructions deſired the money to be ſent to Mr Downie;—the blanks were not filled up in the inſtructions.

Q. Is that one of the papers in your parcel?

A. I think ſo.

(Paper read.)

Fundamental Principles of the Societies.

" 1*ſt*, The Com. of U. is compoſed of perſons appointed by the people, to look after their intereſts, and are conſequently amenable for their conduct to the people; therefore, the people have the power of depoſing, by means of petition to the preſident of the Com. of U. and by him reported to the ſocieties, for miſconduct in any of their repreſentatives.

" 2*d*, As repreſentatives of the Com. of U. are inveſted with every power their conſtituents can claim, the will of the conſtituent, at the appointment of his repreſentative, is, that he watch over his intereſt, as a member of the community. But the will of the conſtituent is the conſtituent himſelf; therefore, if a repreſentative is attacked in the diſcharge of his duty; his conſtituents are bound by nature, reaſon, and honour, to defend him.

Lord Advocate.—Go to the collectors. (Reads.)

" 1*ſt*, Each ſociety ſhall appoint one or more perſons, the moſt active and intelligent, to be collectors of money, and each of theſe collectors are to have the ſuperintendency of 15 or 20 perſons, whom they are enjoined to viſit, as oft as their time may allow: what money they may collect is to be delivered to the treaſurer of their different ſocieties, every week.

" 2*d*, Such collectors are permanent; unleſs diſqualified by inattention, or otherwiſe, they are to meet with the Com. of W. and M. to report progreſs once every 3 weeks.

5*th*, *Of the extent of Delegation.*

" 1*ſt*, Election of Delegates to the Com. of U. takes place

on the firſt Thurſday of February, May, Auguſt, and November, annually.

" 2*d*, Each ſociety ſhall ſend a delegate for every 12 members, to the Committee of U. with a letter ſigned by the preſident and ſecretary for the time being. How ſoon an addition of 12 is made to any ſociety, that ſociety is entitled to ſend an additional delegate. But no ſociety, however numerous, can ſend more than three repreſentatives.

" 3*d*, The powers of ſuch repreſentatives ſhall continue only for 3 months, at which period they muſt either be re-elected, or others choſen in their room.

16*th*.

" 1*ſt*, The ſocieties ſhall adopt ſuch regulations, and adhere to ſuch inſtructions as the Com. of W. and M. may think proper to iſſue, after being ſanctioned by the Com. of U.

" 2*d*, No member ſhall introduce religious topics into debate, no motion for prayers to be ſaid, either at the gathering or diſmiſſion of the ſocieties; becauſe every thing that tends to ſtrife and diviſion muſt be avoided.

Laws relative to the Com. of U.

" 1*ſt*, The Com. of U. ſhall meet once a week, and elect a preſident every meeting, according as their names ſtand in the roll; no member is to abſent himſelf, without aſſigning ſatisfactory reaſons.

" 2*d*, The ſecretary ſhall continue in office 3 months, during which period he has the keeping of the books.

" 3*d*, It ſhall be eligible in any perſon, properly delegated, from any part of the three kingdoms, to be a member of this Committee; but no foreigner can be admitted.

" 4*th*, No Delegate ſhall ſend another in his room, when he is prevented from attending himſelf.

" 5*th*, Both the Preſident and Secretary are ſubject to the ſame laws that regard the Preſident and Secretary of Societies.

" 6*th*, None is allowed to ſpeak in the diſcuſſion of any queſtion, but once, unleſs to explain.

" 7*th*, The roll is to be read by the Secretary at every meeting, ſo ſoon as the Preſident takes the chair, which he muſt do preciſely at eight o'clock, after which, the proceedings of the preceding meeting are read, and the order of the day called.

" 8*th*, The Com. of W. M. muſt report progreſs once every week.

" 9*th*, No member is allowed to accuſe, or make any injurious reflections on another, neither in the Com. of U. nor in the Societies, without firſt ſubmitting the grounds of his accuſation to the Com. of Ways and M.; and they to report to the Com. of U. if, upon examination, they ſee ſufficient reaſons aſſigned.

" 10*th*, The name of the accuſer is not to be made public unleſs the Com. of W. and M. conſider the grounds of accuſation worthy of the attention of the Com. of U.

" 11*th*, Diſintereſtedneſs, condeſcenſion, and affection to one another, muſt prevail, not only amongſt the members of the Com. of U. but amongſt all the ſocieties.

" 12*th*, Heroiſm, and magnanimity of ſoul, muſt be cultivated, and ſtudied, and every one muſt endeavour, in a prudent manner, to vie who will be moſt inſtrumental in forwarding the glorious cauſe; for independent and enlarged minds, give honour and preference only to merit."

Laws relative to the Com. of W. and M.

" 1*ſt*, The Committee of Ways and Means is permanent, and the members of it have the power of expelling any one, or more of its members, for miſconduct and inattention.

" 2*d*, They have the nomination to any vacancy in their own body; alſo a diſcretionary power to meet where and when they pleaſe.

" 3*d*, It ſhall conſiſt of no more than ſeven, nor of leſs than four perſons.

" 4*th*, The Preſident and Secretary of the Com. of U. ſhall examine the money tranſactions of the Com. of W. and M. once every four weeks."

No Croſs Examination.

DR. FORREST, *Sworn.*

Lord Advocate.—Q. Do you know a man of the name of John Fairley?

A. Yes.

Q. When did you ſee him firſt?

A. Sometime in May laſt.

Q. Where did you ſee him?

A. At Stirling.

Q. Had you ever known that man before?

A. No, my Lord.

Q. How came he to introduce himſelf to you?

A. He ſaid a Thomas Bell deſired him to call upon him.

Q. You were a member of the Society?

A. Yes.

Q. And where did you meet?

A. In my houſe.

Q. And you aſked ſome of the members of the Society to join?

A. Yes.

Q. I wiſh you would juſt tell your ſtory to the jury that are entitled to hear it; on that occaſion did Fairley communicate to you any particular buſineſs or circumſtances?

A. He told us he was ſent by the Committee in Edinburgh, to endeavour to procure money for the ſupport of Mrs Skirving, and ſome other friends of reform, and to know what were our ſentiments about reform.

Q. To know what were your ſentiments?

A. He ſhewed us a written paper to that purport: I cannot recollect that paper at preſent to be nothing, but what I recollected before, that there were to be collectors for 14 or 15, to collect the opinion of that 14, to know their ſentiments, and to procure the money, I underſtand, and there was a part of the inſtructions they mentioned, they were to

be provided with—and a blank followed that; to be provided with blank.

Q. Now, I aſk, what did you underſtand by that provided with, and that blank? What did you underſtand at the time?

A. If I might gueſs or conjecture,—being armed.

Q. Did you or any perſon give any anſwer at the time, or take any notice of thoſe inſtructions to that effect?

A. I think I ſaid, he ſhould be cautious how he conducted himſelf, and what he ſaid; for our parts, we had no thoughts of proceeding further; in what we had done, we had expreſſed our thoughts to the public, or ſomething to that purpoſe.

Q. You ſay you concluded the blank meant arms;—now, I aſk you, was there any other circumſtance which paſſed between you and this man Fairley, relative to this conjecture of yours, which tended to confirm or diſprove that conjecture?

A. I don't remember particularly, but ſomething was mentioned of an expected invaſion by the French, and he took a piece of paper and a pencil, and drew a figure reſembling a halberd.

Q. Do you ſee any thing upon the table like it?

A. Yes, my Lord, it was ſomething like that.

Q. He aſked how that would anſwer for defence?

A. Yes

Q. Did he ſay any thing more upon that ſubject?

A. Yes, I don't recollect what followed upon that; there was nothing that I recollect.

Q. Do you recollect any thing elſe of his giving you any other information with reſpect to what was going on at Edinburgh?

A. He mentioned, I think, that he knew a perſon that could provide ſuch, and I think he mentioned the number, but I cannot put a name upon it.

Q. Did he mention where this perſon reſided that was to furniſh theſe things?

A. No, I do not recollect, but the idea ſtruck me.

Q. Did this paſs after your friends left you, or were with you?

A. To the beſt of my knowledge while they were there.

Q. Did he ſtay after they left you?

A. He ſtaid and ſlept there all night.

Q. Was there any thing elſe that paſſed between you and him, that ſtruck you at the time as extraordinary, as to what was to be done in Edinburgh?

A. There was ſomething ſtated about the Collectors.

Q. Did that paper of inſtructions mention any thing with reſpect to any plan or ſcheme which ſtruck you?

A. Unleſs it was thoſe collectors that were to attend, and to know their ſentiments—

Q. What beſides that?

A. I cannot recollect juſt now.

Q. Was there any thing ſaid by Fairley you thought it your duty to check him in?

A. I don't remember.

Q. Was there any thing about violent meaſures about to be propoſed in Edinburgh?

A. I think he ſaid, that ſome people in Edinburgh, would probably repent of their conduct.

Q. What people? Was it the Friends of the People?

A. No, I did not ſuppoſe that.

Q. Who did you ſuppoſe them?

A. I ſuppoſed it was their opponents.

Q. He left you ſome printed papers?

A. Yes.

Q. What became of thoſe printed papers?

A. I gave, to the beſt of my knowledge, a copy of a letter of regulations and rules to and my friends burnt the reſt.

Q. When did they burn the reſt; was it before or ſince the warrant ſent for you to Stirling?

A. Yes, in conſequence of that warrant.

Mr Auſtruther.—*Q.* Now, before you go, only do recollect yourſelf, and tell me whether there was no converſation between you and Fairley, after the company went away, more than what you have ſtated?

A. No, I do not recollect; it was very near midnight, and I went to bed very ſoon.

Q. Now, I only aſk you, do you ſwear that you recollect no more of the converſation with Fairley, than you have now ſtated?

A. I can very ſafely do it at preſent; ſeveral things may have eſcaped me, that, by helping my recollection I might anſwer.

JOSEPH GURNALL, *Sworn.*

Q. In what employment are you?

A. A King's meſſenger.

Q. Pray do you know a Thomas Hardy in London?

A. Yes, my Lord.

Q. Were you ever employed in ſearching his houſe?

A. Yes, in conſequence of a warrant from the Secretary of State, jointly with Mr Lauzune, I was to ſearch his houſe, and ſeize his papers.

Q. Now, Sir, did you ſee any of Hardy's papers?

A. In the bureau of Hardy's houſe, I ſaw Hardy's papers. I found that letter in his bureau.

Q. When?

A. In the morning of the 12th of May.

ALEXANDER MITCHELL, *Sworn.*

Lord Advocate.—*Q.* Mr Mitchell, where do you commonly live?

A. In Stirling.

Q. Were you living there in the month of April laſt?

A. Yes, I was.

Q. Was there any Society of the Friends of the People there?

A. Yes, I was a member of it.

Q. Were you the ſecretary of it?

A. I never acted as a ſecretary of that properly, but as ſecretary of the United Societies.

Q. What ſocieties were united?

A. Kilmarnock, Gawſtone, Newmills, Darwell, and Strathaven.

Q. Do you know a man of the name of Thomas Hardy?

A He is deſigned a ſhoemaker.

Q. Has he any other ſituation?

A. He is ſecretary of a Correſponding Society in London.

Q. Did you, or your Society, or any of theſe Societies, receive in April laſt, or in the courſe of this year, any letter from this Mr Hardy?

A. Yes, a letter for the Society in Strathaven.

Q. What was the purport of that letter?

A A principal part of it was announcing a propoſal for another Britiſh Convention.

Q. Would you know the letter if you ſaw it? is that like the letter?

A. Yes, I think it bears every reſemblance of that letter.

Q. Now, ſir, did your ſocieties do any thing in conſequence of that letter, to your knowledge?

A. Yes, there was a meeting of the United ſocieties, as I mentioned before, at Darwell, on the receipt of that letter.

Q. What did you do.

A. The conſideration was, if it was proper to ſend a delegate to that Convention, and it was agreed there ſhould be one ſent.

Q. Did that ſociety do any thing elſe in conſequence of that?

A. There was one appointed to be ready to be ſent againſt the time it ſhould be called.

Q. Did they write ſo to Hardy, and give him any information of it?

A. Yes, they did.

Q. Did they write them?

A. Yes.

Q. Who wrote the anſwer?

A. It went in my name.

Q. Did you write it ?

A. Yes.

Q. Look at that letter, and ſee if you wrote that anſwer to Hardy ; is that your hand writing ?

A. Yes, I recognize it to be the ſame from all I can judge.

Q. What was the name of the gentleman you choſe to be delegate of the ſociety that was to be held in readineſs ?

A. I do not conceive it would be of any direct uſe to the Court, or I would mention it ; it might be a cauſe of trouble to the gentleman.

Q. You are bound to mention it. What was his name ?

A. James Wilſon of Strathaven.

Lord Advocate.—This letter is found by Gurnall, 12th May laſt, in this gentleman's hand-writing. This letter is of the date that Mr Gurnal ſpeaks to.

(Reads)

" *Fellow Citizens,*

" The Society in Strathaven received your circular letter ſome time ago, reſpecting another Britiſh Convention to be held in England, and finding it would be inconvenient for them to ſend a delegate for themſelves alone, the cauſe being much ſuppreſſed here by proſecutions, which we are ſubjected to from the petty Sheriffs in our neighbourhood, we have united ourſelves with the ſocieties in Kilmarnock, Galſton, Newmills and Derwall. Accordingly, a meeting of delegates from theſe ſocieties, and that in Strathaven, was conveened on the firſt current, when the meaſures met with the fulleſt approbation, and a delegate was elected for the General Convention, and a ſecret committee appointed to conduct the buſineſs. You will therefore forward your orders to us, when, and where the Convention is to meet, with any other inſtructions or information you may judge neceſſary. We ſhall inſtruct our Delegates reſpecting the number and ſtrength of our Societies, and are happy to fraternize with

you in any thing that may tend to promote the general good.

" We remain yours,
" In the cauſe of Liberty,
" For the United Societies as above,
" ALEX. MITCHELL, *Sec.*

" *Strathaven, 9th April* 1794."

Sent per poſt and addreſſed thus.

" Mr. T. Hardy, ſhoemaker, No. 9, Piccadilly, London."

WALTER MILLER, *Sworn.*

Lord Advocate.—*Q.* You live in Perth, don't you?

A. Yes.

Q. Did you ever hear or know of a man called Thomas Hardy?

A. I have heard of ſuch a man.

Q. Did you ever receive any letters from him?

A. Never from him directly, but I got a circular printed letter from him by way of Edinburgh.

Q. Was it long before the Sheriff of Perth took you up, and aſked ſome queſtions?

A. It was not long, I cannot ſay the time.

Q. Look at that letter?

A. Yes.

Q. Look at it, and ſee if it is the ſame?

A. I have no occaſion to look at it any more, when I am ſatisfied.

Q. Be ſo good to look at that, and ſee if you ever ſaw that before?

A. Yes, I ſaw that too.

Q. That letter is ſigned David Downie?

A. Yes.

Q. Is that addreſs to you?

A. Yes, certainly I received it, and it was ſeized in my poſſeſſion, and my initials are on the back of it.

Q. You ſee in the end of this letter, " we propoſe to ſend one publiſhed by the Courier, will be pleaſed to ſend us a parcel with your addreſs."

Q. What ſort of addreſs was it?

A. It was pamphlets.

Q. What ſort of pamphlets?

A. Political pamphlets, to be ſure.

Q. What ſort of pamphlets?

A. I dont know; they were all ſmall pamphlets.

Q. Was there a printed circular letter, a ſmall piece of paper came along with this parcel?

A. I did receive a circular letter, whether it came at the ſame time I don't recollect.

Q. What ſort of a circular letter was it?

A. It was a circular letter from what is called the Committee of Ways and Means here.

Q. Do you remember the purport of that letter?

A. The purport of it was to call on the people to proſecute their endeavours towards a Reform, and that was a thing highly proper and neceſſary.

Q. Now, that circular letter from Hardy, did you take any ſteps in conſequence of it?

A. Yes.

Q. What were theſe ſteps?

A. The Committee conſidered it.

Q. And what did they conſider?

A. Why, if it was a meaſure reſolved upon by the other parties of the kingdom, they were to adhere to it.

Q. What do they mean by that?

A. The purport of it was, they were to ſend delegates upon due determination, which they could not tell without conſideration afterwards.

Q. They were to ſend delegates to this Convention?

A. Yes.

Q. Look at that letter, and ſee if it is like that?

A. I could not ſay really; there was a copy of that letter ſeized in Perth; I know that it was directed to me.

Q. What was the ſize of it?

A. I don't recollect the ſize.

Mr Clerk.—*Q.* Do you remember the time when Mr Watt and Mr Downie were ſeized and impriſoned?

A. I may remember that very well; a few days after that I was apprehended myſelf, and have lain in jail ever ſince.

Q. Had you any notice from Mr Watt, or Mr Downie of ſuch a propoſal as that?

A I am very certain there was no propoſal of that kind. I was a member of all the Committees at that time exiſting in Perth.

Q. And you never heard a ſingle word about arms,—3 or 4,000?

A. No, never till yeſterday night, when I ſaw it in the newſpaper.

Q. You ſaid you were a member of the Society?

A. Yes, certainly ſo.

Q. Are you a member yet?

A. I cannot be a member while I am in priſon.

Q. Did not you ceaſe to be a member of that Committee?

A. Yes.

Q. Why?

A. For ſome difference in that ſociety.

Q. What was it?

A. I ſuppoſe it is not connected with this cauſe.

COURT.—We cannot tell till we hear it, it may be material or not.

A. If the Court will oblige me, I will; but I will not enter into buſineſs abſtract from the cauſe; it is not connected with the cauſe.

Witneſs.—My Lords, if you have no more occaſion for me on this trial, I think I have a right to my liberty now.

Lord Advocate.—The witneſs is taken up, and impriſoned under a warrant for treaſonable practices, by an act of laſt ſeſſions of Parliament, ſuſpending the act of 1701. It is not

in the power of your Lordſhip to liberate him, without an order ſigned by 6 at leaſt of the Privy Council.

Witneſs.—I beg leave to be heard a few words—It is in my knowledge that I was taken up in a moſt illegal manner, by a warrant from the Sheriff; I have been detained here three months under extraordinary circumſtances, and have received the worſt of treatment; laſt night, when I went from that bar, I mentioned to your Lordſhip my appearing under particular circumſtances, and being ſo long a priſoner, and having met with ſuch ſevere treatment, it might be thought I was come here at the expence of this pannel's life, to ſave my own ſelf. I was determined to refuſe giving evidence, and ſtated my objection; my Lord Advocate told me I was not to be brought to trial. I know I am entitled to my liberty.

Lord President.—What you have required of the Court we cannot do; there muſt be an application to the Privy Council, and upon that application, his Majeſty's Advocate may be heard againſt it. This Court can do nothing in the buſineſs one way or another. The law is open to you, if you have been oppreſſed. This is not the way it can be done; the Court has nothing to do with it in this ſhape.

Witneſs.—I aſk one queſtion; is it not the ſtated law of the country, that, when a perſon is once admitted a witneſs, he is free from that criminal charge; can I be freed from all criminality?

Lord President.—Apply to your Counſel for advice. All this is quite irregular. The Court cannot hold any more converſation with you upon that ſubject.

Lord Advocate.—We have done for the proſecution.

Mr Cullen.—I wiſh to trouble the Lord Advocate to explain ſomething concerning a tranſaction that paſſed between him and Mr Watt; I wiſh the Jury may ſee what the deſcription and character of Mr Watt was

Mr Anſtruther.—I am totally at a loſs to underſtand how the character of Mr Watt, can be made evidence on Mr Downie's

trial, but ſtill I have not the ſmalleſt objection to your examining the Lord Advocate.

Mr Cullen.—*Q.* I wiſh your Lordſhip to give an account of the tranſactions and communications your Lordſhip had with Mr Watt, regarding the ſubject of intended riots, or with regard to any thing of the like kind?

Lord Advocate—*A.* In October 1792, Mr Secretary Dundas was in the country; at that time there was a very general alarm, it was immediately before the Parliament was called; and the militia were called out upon rumours of intended riots, and various diſturbances in different parts of the country. Mr Dundas had ſeveral converſations with me, the Solicitor General, and with Mr Pringle the Sheriff, and he mentioned that a perſon had wrote to him ſome ſhort time before, ſtating to him that there was a certain number of people aſſociated in Edinburgh, among whom a dangerous conſpiracy was going forward; Mr Dundas, therefore, deſired me to inquire about this man, to ſee what kind of perſon he was; Mr Pringle the Sheriff made the inquiry, and I remember ſome ſhort time after, about the beginning of November, when I was in the country, Mr Pringle told me he had made inquiry, I believe of Mr Balfour the Bookſeller? The reſult of our inquiry was ſuch, we thought we could confide in him ſo far as to hold converſations with him on the ſubject. When I came to town in November, he ſome times came to my houſe in George's Square, and mentioned ſome things that were going on, and gave me the names of certain individuals. He likewiſe went to the North of Scotland, and wrote from Dundee and Forfar, ſtating the ſituation of that part of the country. When I ſaw him he gave me ſome accounts, which he ſaid he had received during his journey, particularly ſome he had received in Fifeſhire, or Forfar, about a party of ſoldiers from Chatham, whom he repreſented as having been ſeduced from their duty. This appeared to me material. He ſaid thoſe ſoldiers were at Perth, and after ſome correſpondence, they were found there: Lord Adam Gordon ordered them

to come to Edinburgh; when I was informed they were arrived, I went down to the Abbey, and examined them all ſeparately, in Lord Adam's preſence; and his Lordſhip's opinion, and mine was, that the information given by Watt reſpecting them was not founded. The ſoldiers, at leaſt, denied every thing which had been imputed to them, by the perſons from whom Watt ſaid he had received the information, and it reſted on the credit to be given to the oppoſite accounts. There the matter dropped, and I gave it no more attention. He came afterwards occaſionally during the winter, and communicated to me ſeveral particulars of the proceedings of thoſe clubs and ſocieties, which were then meeting in Edinburgh; ſome of theſe perſons were then tried before the Court of Juſticiary.

It appeared to me, that the perſons I had heard of that compoſed thoſe clubs, were a number of them in a very low ſituation in life; and there was clearly more money going amongſt them than could, as it appeared to me, ſpring from their own labour; I ſuſpected it might come from London, or perhaps from France, and I deſired him to enquire particularly into that circumſtance. Some time after this, he wrote to me in London, that one or two perſons knew ſomething material, which they offered to divulge, provided he (Watt) could give them a large ſum of money, about a thouſand pounds, or ſome ſuch large ſum of money. I wrote him in reply, that I could not comply with ſuch a propoſition, but I afterwards paid him 30l. as he ſaid he had accepted a bill in favour of one of thoſe men for that ſum. I wrote to my clerk to pay it, and it was paid accordingly. In the month of May, or in the courſe of the ſummer, he wrote to me in regard to ſome proviſion for himſelf, which did not ſucceed; and ſo far as I can charge my own memory with it, I never ſaw or heard from him ſince July 1793. If the counſel for Watt had not put the queſtion to me the other night, whether I did not receive a letter from him when I was at the Duke of Athole's houſe, laſt September, it would not have occured to me that I did. I was there the latter end of September; I have en-

deavoured to recollect as accurately as I can, and I cannot recollect having received any ſuch letter; but I am certain, ſince October laſt, I never ſaw or heard of him. The next time I heard of him was in the meeting of the ſecret Committee of the Houſe of Commons, when Mr Secretary Dundas communicated to us the diſcoveries made here by the Sheriff. I had heard before this, and ſince the diſperſion of the Britiſh Convention, that a citizen Watt had appeared, and was buſy in the clubs. But it never entered into my head that he was the man. I had before that a great confidence in him, and I would have truſted him with any thing. I was perfectly thunder-ſtruck when I heard the information, that this was the man who voluntarily had given Mr Dundas and me theſe informations.

MR CULLEN.

GENTLEMEN OF THE JURY.

WHEN I firſt heard, that I had been ſuggeſted by Mr Downie, and appointed by the Court to be one of his counſel, I felt myſelf under very great perplexity.

The anxiety of mind, ſo unavoidable when ſtanding entruſted with the defence of a priſoner under trial for his life, has been always felt by me ſo ſeverely, that for a number of years paſt, I have, as far as in my power, declined accepting the employment.

I felt myſelf more particularly diſtreſſed upon the preſent occaſion, becauſe it was a trial upon the law of another country, with which I myſelf have little or no acquaintance. It was a trial, not only according to the law, but according to the *forms* of the law of England, with which I am, if poſſible, ſtill leſs acquainted.

More particularly did I feel theſe difficulties preſs upon my mind, when I underſtood that his Majeſty's counſel, diſtinguiſhed as they are for their learning and abilities, had found it neceſſary to bring down from another country, gentlemen of great conſideration and eminence in their profeſſion, in order to give their aſſiſtance in the conducting of theſe proſecutions. I wiſh that the ſituation of thoſe unfortunate perſons, who have been now brought to trial, had been ſuch, as to enable them alſo to bring down, for their defence, ſimilar aid to that which has been brought upon the other ſide. But

unhappily, that was far beyond their reach, and they were obliged to truſt their defence to thoſe gentlemen whom the Court ſhould aſſign to them as counſel.

Under all theſe difficulties, with which I felt myſelf ſurrounded, the weight upon my mind was ſuch, that I was ready to ſhrink from the taſk; and nothing could have induced me to undertake it, but the reſpect I owe to any appointment with which the Court is pleaſed to honour me, and a reſolution which I think becoming my profeſſion, of not refuſing what little ſervices I can render to an unfortunate perſon ſtanding a priſoner at the bar of a criminal Court, who deſires my aid and aſſiſtance. I have always conſidered it as a painful, but as one of the moſt honourable diſcharges of my profeſſional duty, to give that aid to perſons under thoſe circumſtances; and it was from theſe conſiderations that I yielded to the ſolicitations of the priſoner at the bar, and agreed to aſſiſt him to the beſt of my power.

If any thing could have added to the anxiety of my mind, it was what I came to learn of the character and ſituation of this poor man, whom I never had ſeen, nor knew any thing about, before I was appointed one of his counſel. A man, advanced in years, in the decline of life, with old age coming faſt upon him. A man, in a creditable ſituation, and who for many years has been a member of one of the moſt reſpectable incorporations of this city, with a character perfectly unblemiſhed and unimpeached. Add to all this, his having a wife and family of children; and I could not help thinking ſtrange, nay, incredible, that a perſon of ſuch a deſcription, at a period of life when innovations and commotions were ſurely no object to him, could be guilty of High Treaſon, and enter into ſchemes for the overthrow of that Government under the protection of which, he and his family were enjoying peace and ſecurity.

The more that theſe things have made me believe him guiltleſs of any ſuch wild and criminal deſigns, the greater has my deſire become, to do juſtice to his defence; and, under all this anxiety, I much fear, my inability to diſcharge my duty properly. I will however, endeavour to

do my utmoſt; and as I know the juſtice and candour of the Court before which I have the honour to plead, ſo I know alſo the integrity, the attention, and the humanity of the Jury whom I addreſs, and that they will not only pardon, but amply ſupply any defects of mine.

Gentlemen, what is now brought before you, is a charge againſt the priſoner at the bar for the crime of High Treaſon, and you all know that it is by the law of England he is to be tried. At the time of the treaty of Union, as was very properly ſtated this morning by the Lord Advocate, it was judged expedient, and it certainly was ſo, that with reſpect to a crime of this nature, the law of the two countries ſhould be put upon the ſame footing; and, accordingly, it was agreed and determined, that the law of England ſhould, as to Treaſon, be made the law of Scotland. In conſequence of this, ſoon after the period of the Union, an act of Parliament was paſſed in the 7th of Queen Anne, by which it was provided, that in time coming, ſuch crimes and offences which are High Treaſon or miſpriſion of High Treaſon within England, ſhall be conſtrued, adjudged, and taken to be High Treaſon and miſpriſion of High Treaſon within Scotland. In ſhort, the law of Treaſon in England was made the law which in that particular was to govern Scotland in time to come.

I muſt acknowledge, Gentlemen, that I feel a conſiderable degree of diffidence in offering obſervations to you upon the nature of the law of Treaſon in England, becauſe, as I have already ſaid, the law of England is what I am very little acquainted with. I have endeavoured, however, ſince I had the honour of being appointed counſel in this caſe, to conſider and peruſe, with all the attention in my power, the books of the law of England with regard to Treaſon; and although I ſhall not trouble you with long quotations, nor with reading many paſſages from different books, I ſhall take the liberty of ſtating ſome remarks with reſpect to what I conceive to be the law of Treaſon, as far as it can affect the caſe now under conſideration.

Gentlemen, the great law with regard to High Treaſon in England, is the well-known ſtatute of the 25th of Edward III; and that act of Parliament was paſſed for the very purpoſe of defining and rendering the nature of the crime of Treaſon preciſe and certain. It is mentioned by all the different writers upon the law of England, that, anterior to the period of Edward the Third, the law reſpecting Treaſon had been ſo unſettled, and undefined, that frequently crimes of a much leſſer degree of guilt, had, notwithſtanding, been accounted Treaſon. In order to prevent this, the ſtatute of Edward III was paſſed, proceeding upon a petition from the Lords and Commons, the mode in which acts of Parliament run at that period; and the act itſelf declares what offences, ſhall in time coming be adjudged Treaſon.

There are only two branches of this Statute, which it is in any degree material for me to bring particularly under your view. The firſt thing that it declares to be High Treaſon, is the *Compaſſing or Imagining the death of the King*. The Statute itſelf, like the others of that period, was written in the French language, and the words are "compaſer, ou ymaginer la mort noſtre Seigneur le Roy." It is perhaps ſingular, as has been well remarked by an ingenious writer, that the life of every Britiſh ſubject proſecuted by the Crown for treaſon, ſhould continue to depend *upon the critical conſtruction of two obſolete French words*.

Another ſpecies of Treaſon declared in this act, is *the levying war againſt the King*; and the Statute provides, that when a man doth compaſs or imagine the death of the King, or doth levy war againſt the King, and thereof be *proveablement*, that is, upon ſufficient proof attainted *of open deed*, he ſhall be adjudged guilty of Treaſon. Theſe are the only two ſpecies of Treaſon to which I find it at all neceſſary to call your attention. Indeed the firſt of them is that upon which the preſent indictment is laid.

I muſt likewiſe obſerve, that the very deſign and purpoſe of this Statute was to prevent arbitrary conſtructions, as to what was Treaſon, and to prevent its being in time coming underſtood

that any thing was to be adjudged Treaſon, but that which the ſtatute had actually declared and defined to be ſuch. And I muſt differ exceedingly from thoſe who think that it was meant to leave to judicial power, to enlarge by conſtruction, what ſhould be held Treaſon; for I take it, that this is directly oppoſite to what the Statute had in view. It explicitly declares and ſpecifies what ſhould be held High Treaſon, and that nothing elſe ſhould be conſidered as ſuch, and it very anxiouſly and ſpecially provides, that if any other caſe, ſuppoſed Treaſon, which is not ſpecified in the act, ſhall happen to occur, *the Judges ſhall not hold it to be Treaſon*, till the King and his Parliament ſhall declare whether it ought to be judged Treaſon or other Felony. Thus careful was the Legiſlature to render the Law of Treaſon fixed and certain, and to provide that it ſhould only be in the power *of Parliament itſelf*, to extend the Law, and bring under that deſcription, any other offence, which this act had not declared to be ſuch.

In the weak and unfortunate Reign of his Succeſſor, Richard II. many different Acts of Parliament were paſſed, declaring a variety of offences to be Treaſon, which were not ſuch by the Statute of Edward the III.; but all theſe were repealed and taken away in the beginning of the Reign of Henry IV. by an Act which ſet forth, *that no man knew how to be have himſelf, to do, ſpeak, or ſay, for doubt of ſuch pains of Treaſon*; and therefore declared, that in time coming, nothing ſhould be held Treaſon, otherways than was ordained, by the ſtatute of Edward III. Notwithſtanding this, it ſo happened, that in ſucceeding arbitrary and Tyrannical Reigns, and particularly in that of Henry VIII. a great variety of offences were moſt improperly declared to be Treaſon, although they could not, with the leaſt ſhadow of reaſon, come under that denomination. But all theſe were ſoon after completely abrogated by the Statute of the 1ſt of Queen Mary, which again brought back the Law of Treaſon to the footing upon which it ſtood by the 25th of Edward III.

I mention theſe things, Gentlemen, in order to ſhew you, that the great object of the Legiſlature has always been to

leave as little as poſſible to *to interpretation and conſtruction*, and to keep as defined and clear as might be, what ſhould be held High Treaſon; ſo that the ſubject might have a certain rule whereby to ſquare his actions, and to protect him from arbitrary proſecutions for treaſon, when in fact no ſuch crime had been committed.

Poſterior to the act of Queen Mary, which I have juſt now mentioned, ſome new Treaſons were created by ſtatute, but they have been chiefly of a temporary nature. There were ſome in the reign of Elizabeth, and one in the reign of Charles II. but they expired with the lives of thoſe princes; and there have been none ſince, excepting thoſe for ſecuring the Proteſtant ſucceſſion in the illuſtrious houſe that now reigns, and I hope and truſt will long and happily reign over theſe Kingdoms. The ſtatutes to which I now allude, however, do not in the leaſt degree touch upon the preſent queſtion; ſo that, in ſhort, the ſingle and only ſtatute which is to be regarded as defining and explaining what is to be held High Treaſon, is that of the 25th of Edward III.

There is a ſtatute, indeed, of great conſequence, which was paſſed ſome years after the happy Revolution in 1688, I mean the act of the 7th of William III, for regulating of trials in caſes of Treaſon.

Beſides other ſalutary regulations which the ſtatute introduced, it provided, that no perſon ſhould be indicted, tried, or attainted of Treaſon, but upon the oaths *of two lawful witneſſes*, either both to the ſame overt act, or one of them to one, and another to another overt act of the ſame Treaſon. It farther provided, that if two or more diſtinct Treaſons of different kinds ſhould be charged, one witneſs to prove one of them, and another witneſs to prove another of the ſaid Treaſons, ſhould not be held two witneſſes to the ſame Treaſon within the meaning of the Act. And a third proviſion of the act was, that no evidence ſhall be admitted or given of any overt act, that was not expreſsly laid in the indictment. Theſe are ſome of the important regulations eſtabliſhed by this excellent ſtatute; and there will be occaſion for you to give ſome attention to them in conſidering

the evidence which has been adduced againſt the priſoner a the bar.

Having thus endeavoured to give you a view of the Statute Law upon this ſubject, I muſt now obſerve to you, gentlemen, that the preſent indictment charges the priſoner with the *firſt ſpecies of Treaſon*, which is that *of compaſſing or imagining the death of the King*; and it will be with you to conſider, whether *the overt acts* that are laid, amount to that crime.

It is not indeed pretended by the proſecutor, that he can eſtabliſh againſt the priſoner the compaſſing or imagining the death of the King, agreeable to the terms of the ſtatute; but you are told, that there is known in law, what is called *Conſtructive Treaſon*, or, in other words, a treaſon not to be found in the letter of the law, but raiſed up *by interpretation and implication*. Thus, levying war againſt the King is one of the ſpecies of Treaſon in the ſtatute of Edward III.; but *a mere conſpiracy* to levy war, without war actually levied, is not; and therefore, to reach *ſuch a conſpiracy*, it has been held, that although not falling under the *ſecond*, it falls under the *firſt* branch of the act, as a compaſſing or imagining the death of the King.

It ſeems to be *this* ſpecies of conſtructive Treaſon that is meant to be charged againſt the priſoner; and with reſpect to *Conſtructive Treaſon* in general, I muſt beg leave to remark, that in its very nature, it is of a dangerous tendency, and ſuch as ought never to be liſtened to, nor admitted, without at leaſt the utmoſt caution and circumſpection. As I ſaid before, I ſhall not trouble you with quoting many authorities, but I muſt take the liberty of here laying before you a ſingle paſſage from a moſt reſpectable author—I mean Sir Matthew Hale, Lord Chief Juſtice of England, a man not leſs eminently diſtinguiſhed for his high integrity, than for his great ability and knowledge of the law; and, in his Hiſtory of his pleas of the Crown, in ſpeaking of *Conſtructive Treaſon*, he uſes the following words, which I ſhall beg leave to read to you.

After mentioning the great miſchiefs that were brought in

by Conſtructive Treaſon, he ſays: "Now although the crime "of High Treaſon is the greateſt crime againſt faith, duty, "and human ſociety, and brings with it the greateſt and moſt "fatal dangers to the government, peace and happineſs of a "Kingdom, or State, and therefore is deſervedly branded "with the higheſt ignominy, and ſubjected to the greateſt "penalties that the law can inflict: yet by theſe inſtances, "and more of this kind that might be given, it appears, 1*ſt*, "How neceſſary it was, that there ſhould be ſome fixed and "ſettled boundary for this great crime of Treaſon, and of "what great importance the ſtatute of 25th Edward III. was "in order to that end. 2*d*, *How dangerous it is to depart "from the letter of that ſtatute*, and to multiply and enhance "crimes into Treaſon by ambiguous and general words, as "accroeching of Royal power, ſubverting of fundamental "laws, and the like; and, 3*d*, How dangerous it is, by con-"ſtruction and analogy to make Treaſons, where the letter of "the law has not done it: for ſuch a method admits of no "limits or bounds, but runs as far as the wit and inven-"tion of accuſers, and the odiouſneſs and deteſtation of "perſons accuſed, will carry men."

Theſe are the ſound and wholeſome admonitions of this great Lawyer and Judge, who, as you ſee, Gentlemen, from the paſſage I have now read to you, points out, in ſtrong and forcible terms, the imminent miſchiefs and dangers, neceſſarily reſulting from the too readily giving way to Treaſons *by conſtruction*.

But, Gentlemen, while I give you this caution, in the words of the Venerable Judge whom I have quoted, I am not upon that account to ſay to you, that in the law of England there is no ſuch thing as Conſtructive Treaſon. I do not pretend to impoſe upon you ſo idle a doctrine; for I mean to be candid, and, as far as my knowledge will enable me, I wiſh to ſtate to you fairly, what I conceive to be the true principles of the law. There undoubtedly has been admitted and ſanctioned by law, what is termed *Conſtructive Treaſon*; and accordingly, *a conſpiracy to levy war* againſt the

King, although ſuch war *not being actually levied*, could not come under that article of the ſtatute of levying war, has, by a certain conſtruction and interpretation, been held to come under the firſt branch of the act of *compaſſing and imagining the death of the King*.

This, Gentlemen, as I have already remarked, is that ſpecies of conſtructive treaſon, of which the priſoner is here accuſed. He is not charged with any direct attempt to imagine or bring about ſo horrid a purpoſe; but he is charged with what, it is ſaid, *is to be conſtrued* a compaſſing or imagining of the King's death. It reſts upon this, that there is ſaid to have been here a conſpiracy to levy war againſt the King. If war had been actually levied, it might perhaps have amounted to direct Treaſon, under the ſecond branch of the ſtatute of Edward III.; but it being only charged *as a conſpiracy*, or, in other words, a mere deſign and intention never carried into effect, ſo the aim of this proſecution is to lead you to believe, *that it is by conſtruction*, that ſpecies of the crime, which is deſcribed to be the compaſſing and imagining the death of the King.

Upon this conſtruction, a conſpiracy to levy war againſt the King, is ſuppoſed and underſtood to be immediately tending to the compaſſing or imagining his death, becauſe it is a conſpiracy *to do that*, which may neceſſarily and unavoidably involve the ſafety of the King's perſon, or even his ſacred life. Now, I admit that a conſpiracy to levy war, taken in the ſenſe in which I have now ſtated it, may be held a compaſſing or imagining the death of the King, ſo as to bring it to be Treaſon under the firſt branch of the ſtatute. But, Gentlemen, I do beg leave to ſay, and I do not, in my humble conception, think that I ſpeak it without authority, that there is here a very great and important diſtinction to be made, highly meriting your conſideration.

If the conſpiracy to levy war be *in itſelf* of ſuch a nature, that the object of it is, *directly and immediately*, towards the perſon of the King, then I will readily admit, that, agreeable

to the received conſtruction of the law, it is to be held a compaſſing or imagining the death of the King, and may therefore be brought under the firſt branch of the ſtatute of Treaſons; but, while I admit this, I muſt at the ſame time take the liberty of ſaying, that, with regard to conſpiracies to levy war, there is a neceſſity for diſtinguiſhing, and for viewing the King in two different characters and capacities.

In the *firſt* place, the King is to be conſidered, as in his Royal perſon at the head of his government, and *in whoſe perſonal ſafety*, the peace, the good order, and the ſecurity of the whole country is neceſſarily involved. Viewing him in this light, any attempt or conſpiracy, or intention to levy war, directly aimed againſt *the perſon of the King*, is a wicked deſign to deſtroy the whole bonds of civil ſociety. I readily admit, that it is equally founded in ſound ſenſe, and ſupported by clear authorities, that ſuch a conſpiracy to levy war, may be juſtly deemed High Treaſon, as compaſſing and imagining the death of the King, under the firſt branch of the ſtatute of 25th of Edward III.

But, in the *ſecond* place, Gentlemen, there is another and a very different character in which the King is to be conſidered, and which ariſes from his being that part or branch of that Conſtitution, to which the executive power of the State is entruſted. This has been juſtly termed the *Royal Capacity*, or *the Majeſty of the Crown*, as contradiſtinguiſhed from the *Royal Perſon* of the King. It is, in ſhort, the authority of the King in executing the laws, and it runs through, and pervades every branch, and every gradation of the executive government, from the very higheſt, to the loweſt and moſt inconſiderable. In this view, even actual reſiſtance to the Royal *authority*, and, ſtill more, the intention or deſign to reſiſt it, is conſidered in a very different light, and as an offence of an infinitely leſs degree, than where it is more directly a conſpiracy to levy war againſt the King, immediately to affect his *Royal Perſon*.

There is no occaſion for our here entering into any diſcuſſion reſpecting the degree of criminality that may attach to

actual reſiſtance in different circumſtances to civil authority: but what I beg leave to ſay, and that to which I requeſt your attention, is, that even in thoſe caſes where war *actually levied* might be held Treaſon, yet a mere *intention or conſpiracy* to levy ſuch war, does not involve the crime of compaſſing or imagining the death of the King, unleſs the commotion or inſurrection ſo intended, be ſuch *as is aimed againſt the perſon of the King*, and not merely againſt *his authority or regal capacity*. If the inſurrection has been raiſed, or war actually levied, it may, under the ſtatute of Edward III. be High Treaſon, but if it be merely a conſpiracy to raiſe an inſurrection, or a purpoſe or intention to levy war, in order to reſiſt ſome branch of the executive authority of the State, or ſome officer of the Crown, I will be bold to ſay, that a mere conſpiracy, or a mere intention to levy *that*, has not been held or underſtood to conſtitute the crime of High Treaſon.

Now, Gentlemen, that I may not be ſuppoſed to lay down this doctrine without authority, I muſt be pardoned for bringing under your view, what is ſtated by two very diſtinguiſhed and Eminent Lawyers, who have treated of this ſubject

The one of them is from a book which I think is one of the beſt and it is one of the lateſt upon the law of High Treaſon. I mean that written by Mr Juſtice Foſter, who, after mentioning, that every inſurrection intended againſt *the perſon* of the King, amounts to levying war within the ſtatute, adds further, that every conſpiracy to levy war for theſe purpoſes, though not treaſon within the clauſe of levying war, is yet an overt act within the other clauſe of compaſſing the King's death, becauſe theſe purpoſes cannot be effected by numbers and open force, without manifeſt danger to his perſon.

After ſtating this, he in the next ſection proceeds and ſays, " Inſurrections in order to throw down all incloſures, to al- " ter the eſtabliſhed law, or change religion; to enhance the " price of all labour; or to open all priſons; all riſings, in " order to effect theſe innovations, of a public and general

" concern by an armed force, are, in conſtruction of law, " High Treaſon, within the clauſe of levying war. For, " though they are not levelled at the perſon of the King, " they are againſt his Royal Majeſty. And beſides, they " have a direct tendency to diſſolve all the bonds of ſociety, " and to deſtroy all property, and all government too, by " numbers and an armed force. Inſurrections, likewiſe, for " redreſſing national grievances, or for the expulſion of fo- " reigners in general, or indeed of any ſingle nation living " here under the protection of the King, or for the reform- " ation of real or imaginary evils of a public nature, and in " which the inſurgents have no ſpecial intereſt—riſings to ef- " fect theſe ends, by force and numbers, are, by conſtruction " of law, within the clauſe of levying war. *For they are* " *levelled at the King's Crown and Royal Dignity.*"

Then he goes on, in the next ſection of his Treatiſe, to mention a riſing in the 16th of Charles I. which was in order to ſurpriſe and ſeize Archbiſhop Laud; and after explaining the circumſtances of that caſe, he in the following ſection ſays; " But *a bare conſpiracy for effecting a riſing* for the " purpoſes mentioned in the two preceding ſections, and in " the next, is not an overt act of compaſſing the King's " death; nor will it come under any ſpecies of Treaſon " within the 25th Edward III. *unleſs the riſing be effected.* " And, in that caſe, the conſpirators, as well as the actors, " will all be equally guilty. For, in High Treaſon of all " kinds, all the *participes criminis* are principals."

" It muſt be admitted that conſpiracies for theſe purpoſes " have been adjudged Treaſon. But thoſe judgments were " founded on the temporary act of 13th Elizabeth, which " made compaſſing to levy war, declared by printing, writing, " or adviſed ſpeaking, High Treaſon, during the life of the " Queen.

" There was an act in the 13th Charles II. to the ſame " purpoſe, on which ſome proſecutions were founded; but " that act expired with the death of the King."

You ſee here, Gentlemen, this learned and reſpectable Judge, a man of great eminence and character, laying down, in clear and explicit terms, the very diſtinction which I have taken the liberty of maintaining. It is the diſtinction between a conſpiracy to levy war, aimed at the *Royal Perſon* of the King, and a conſpiracy to effectuate a riſing for the purpoſe of redreſſing ſome grievance, whether real or ſuppoſed, or of whatever nature it may be. In ſhort, every conſpiracy, which, if carried into effect, *would neceſſarily* expoſe the perſon of the King to danger, may be held Treaſon. But it is admitted by every lawyer who has treated of the ſubject, that levying war is of two kinds: The one is againſt *the perſon* of the King, and even to conſpire this, although ſuch war be not actually levied, is yet Treaſon. Another kind, however, is againſt what is called *the Majeſty of the King*, or againſt him in *his Regal Capacity;* and *the mere conſpiracy to levy this*, if not actually levied, is not Treaſon, becauſe it cannot by conſtruction come up to be a compaſſing or imagining the death of the King, ſo as to fall under the ſtatute of Edward III.

This, Gentlemen, is a point of the utmoſt importance, and it may be an arduous matter indeed to ſay where the line is to be drawn, if you do not fix it in the very way that is done by the learned Judge, whoſe words I have juſt now read to you. If any further latitude is to be admitted, I do not know what there is, that may not be *conſtrued* into a conſpiracy to levy war, ſo as *by forced implication* to be held a compaſſing or imagining the death of the King. An intention or deſign to reſiſt or obſtruct any one branch of the civil authority, or executive power of the State, may be ſaid to have a more or leſs immediate tendency in its conſequences to endanger the perſon of the ſovereign, and in that way, by a very ſtrained conſtruction, may be accounted a compaſſing the death of the King.

It is fearful even to figure the dangers and mighty evils to which this might lead. If we do not draw a clear line, there is no ſaying how far it will reach; and this may call to your mind, the wiſe admonition I read to you from

Lord Hales " How neceſſary it is, that there ſhould be ſome " fixed and ſettled boundary for this great crime of Treaſon ; " and how dangerous it is, by conſtruction and analogy, to " make Treaſons, where the letter of the law has not done " it ; for ſuch a method admits of no limits or bounds, but " runs as far as the wit and invention of accuſers, and the " odiouſneſs and deteſtation of perſons accuſed will carry men."

Beſides what I have read to you from Mr Juſtice Foſter, there is one other authority which I muſt beg leave to ſtate, and it is that of another very Eminent and Reſpectable Judge, I mean Sir John Holt, who was Lord Chief Juſtice of the Court of Kings Bench in England, during the reign of King William. He preſided at the trials of ſeveral different perſons who were accuſed of the crime of High Treaſon after the Revolution ; and, amongſt others, in the caſe of Sir John Friend, who was tried for being concerned in a conſpiracy againſt the King, and to reſtore the Pretender.

In that caſe, when ſumming up the evidence to the Jury, Lord Chief Juſtice Holt lays down the law in the following words : " Then there is another thing that Sir John Friend " did inſiſt upon, and that is matter of law. The ſtatute of " 25th Edward the 3d was read, which is the great ſtatute " about treaſons : and that does contain divers ſpecies of trea- " ſon, and declares, what ſhall be Treaſon. One Treaſon is, " the compaſſing and imagining the death of the King ; a- " nother is the levying war : Now, ſays he, here is no war " actually levied ; and a bare conſpiracy or deſign to levy war, " does not come within this law againſt Treaſon. Now, for " that, I muſt tell you, *if there be only a conſpiracy to levy " war, it is not Treaſon.* But if the deſign and conſpiracy be " either *to kill the King, or to depoſe him, or impriſon, or " put any force or reſtraint upon him ;* and the way and me- " thod of effecting of theſe, is by levying a war, there the " conſultation and the conſpiracy to levy a war *for that pur- " poſe*, is High Treaſon, though no war be levied ; for ſuch " conſultation and conſpiracy is an overt act, proving the com- " paſſing the death of the King, which is the firſt Treaſon

" mentioned in the ſtatute of the 25th of Edward the 3d. " For the words of that ſtatute are, That if any man ſhall " compaſs or imagine the death of the King. Now, becauſe " a man *deſigns the death, depoſition, or deſtruction of the* " *King*, and to that deſign, agrees and conſults to levy war, " and this ſhould not be High Treaſon, if a war be not ac- " tually levied, is very ſtrange doctrine, and the contrary has " always been held to be law. There may a war be levied " without any deſign upon the King's perſon, or endangering " of it, which *if actually levied* is High Treaſon; but a bare " deſigning to levy war, without more, will not be Treaſon; " as, for example, if perſons do aſſemble themſelves, and act " with force in oppoſition to ſome law which they think in- " convenient, and hope thereby to get it repealed, this is " levying a war and treaſon, though purpoſing and deſigning " it, is not ſo; when they endeavour, in great numbers, with " force to make ſome reformation of their own heads, with- " out purſuing the methods of the law, that is a levying of " war, and treaſon; but the purpoſing and deſigning it, is " not ſo."

In this clear and perſpicuous manner is the law laid down by this Learned Judge. It would be eaſy for me, to produce to you various other authorities to the ſame purpoſe, from thoſe who have treated of the criminal law of England; but I am unwilling to detain you. I have read to you the words of Lord Chief Juſtice Holt, who preſided in the various trials for High Treaſon, after the Revolution in 1688; and I have read to you the words of Mr Juſtice Foſter, who ſat as judge in the trials for Treaſon after the Rebellion 1745, and from that circumſtance had his attention ſo particularly called to this branch of the criminal law, that he afterwards wrote a very learned and excellent treatiſe upon the ſubject. And, Gentlemen, you find theſe diſtinguiſhed and eminent Judges laying down that very diſtinction to which I am humbly re- queſting your attention; and which is, that where the war to be levyed, is aimed directly againſt the perſon of the King, in order to dethrone, or to depoſe him, then a conſpiracy to

levy ſuch a war, is Treaſon; but where the purpoſe is merely to make ſome reformation with force and numbers, without purſuing the methods of the law, there, although the actual levying ſuch war is Treaſon, yet a conſpiracy to do ſo, or, in other words, the purpoſing and deſigning it, is not ſo.

After having thus endeavoured to convey to you a clear idea of the important diſtinction which I have been here explaining, I muſt now beg leave, Gentlemen, to call your attention to another principle regarding the law of Treaſon; and it is a principle the more ſtrongly demanding your conſideration, becauſe I conceive it to be of great moment in the preſent caſe.

In other crimes, a *deſign* to commit the crime, an *intention or purpoſe of the mind* to perpetrate it, or even ſome ſtep taken towards the commiſſion of it, does not conſtitute the crime itſelf. An intention to commit theft or murder, however it may mark the guilt of the mind, yet while remaining a bare intention, it is not viewed in the ſame light, nor draws after it the puniſhment of the law, as if the guilty purpoſe had been carried into effect, and the crime actually committed.

In the crime of High Treaſon, however, the caſe is different; and there the rule is, *Voluntas reputatur pro facto.* In Treaſon, the circumſtance to be regarded, is the *intention of the mind.* It is the purpoſe and deſign; or, in other words, it is *the guilty heart*, that is in this crime the object of puniſhment. Accordingly, it is the *traiterouſly* compaſſing and imagining, that conſtitutes the offence, and *the overt acts* are only viewed as *the evidence of the traiterous intention.*

So clearly is this the principle of the law, that if a perſon was to put to death the King, the indictment againſt him would be laid, not for committing that moſt attrocious act, but it would be laid againſt him for *compaſſing and imagining* the death of the King; and the killing of the King would be the *overt act* to prove the compaſſing and imagining of it. After the Reſtoration, when the Regicides came to be tried for the murder of King Charles 1ſt, the Indictment was not laid, upon their having put the King to death; but they were

charged with traiterouſly *compaſſing and imagining* the death of the King, and the taking off his head, was laid as one of *the overt acts*.

This is well ſtated by Mr Juſtice Foſter, where he ſays, " The indictment muſt charge that the defendant did *traiterouſly compaſs and imagine*, &c and then go on and " charge the ſeveral *overt acts* as the *means employed* by the " defendant, for executing his traiterous *purpoſes*. For the " *compaſſing* is conſidered as the Treaſon, the *overt acts* as " the means made uſe of to effectuate the intentions and imaginations of the heart. And, therefore, in the caſe of the " Regicides, the indictment charged that they did traiterouſly compaſs and imagine the death of the King. And the " taking off his head was laid, among others, as *an overt act* " of *compaſſing*: And the perſon who was ſuppoſed to have " given the ſtroke, was convicted on the ſame indictment."

And a little afterwards, he adds, " The ſtatute of Treaſons " hath with great propriety retained the rule, *Voluntas pro* " *facto*. It conſidereth the *wicked imaginations of the heart* " in the ſame degree of guilt, as if carried into actual execution, from the moment meaſures appear to have been taken " to render them effectual."

In the crime of Treaſon, therefore, the law conſiders and looks to *the wicked imaginations of the heart*; and the overt acts are only the indications and evidence of the traiterous *purpoſe*. From this it neceſſarily follows, and it deſerves, Gentlemen, your particular attention, that in any charge for High Treaſon, and in conſidering the overt acts laid, and the proof brought in ſupport of them, the great and important object muſt be, to weigh, with the moſt cautious deliberation, *the nature of the overt acts*, and judge how far they are *ſuch* as carry a conviction to the mind of a Jury, of the wicked and traiterous *purpoſe* in the perſon accuſed, of compaſſing and imagining the death of the King.

Gentlemen, I muſt entreat your attention to this, for it is of great importance. You ſee the principle of the law is, that

it is the traiterous purpoſe of the mind, which alone conſtitutes the offence. The overt acts are only ſtated as proofs of that traiterous purpoſe, and, therefore, the thing to be conſidered is, the nature, the amount and import of the overt acts; and whether they afford compleat and convincing proof, that they muſt and can only have proceeded, from the wicked and guilty *intention of compaſſing and imagining the death of the King.*

In the preſent caſe, the ſpecies of Treaſon charged, is the compaſſing and imagining the death of the King, and, therefore, the overt acts muſt be *ſuch* as neceſſarily to prove that charge. The *overt act* can be of no ſort of conſequence, unleſs in ſo far as it can connect with and prove the *malicious compaſſing and imagining* An overt act amounting to any thing leſs than this, can be of no avail. It may ſhew a ſeditious purpoſe, or may amount to an offence of ſome other kind; but where it is laid in ſupport of an indictment for compaſſing and imagining, it muſt neceſſarily apply *to that*, or otherways can be of no weight in proof of the charge. In ſhort, the wicked purpoſe of the heart conſtitutes the crime; and a Jury muſt be ſure of that wicked purpoſe in the perſon accuſed, before they can convict.

Although I have ſaid, Gentlemen, that, *in other crimes*, the intention or guilt of the mind does not conſtitute the offence, and that it is requiſite the intention be actually carried into effect, yet I muſt at the ſame time obſerve, that in all crimes whatever, the greater or leſſer degree of guilt in the mind, eſſentially varies, and changes the extent of the offence. Thus, in homicide, it totally depends upon the *intention* of the heart, whether it is to be deemed any crime at all; or, if a crime, then of what nature that crime is. The *effect* is the ſame, for the man is killed; but the perſon who killed him, may be guilty or innocent, according to circumſtances. If he has killed him by innocent misfortune, or in neceſſary ſelf defence, he is guilty of no crime. If he has killed him only upon provocation, and in ſudden paſſion, he is guilty only of manſlaughter. If he has killed him of deſign and from *malice prepenſe, ex malitia præcogitata*, it is the attrocious crime of foul and de-

iberate murder. The whole colour and complexion of the offence, in ſhort, ſhifts and varies according to the degree of *guilt in the heart*, from which it proceeds.

In *treaſon*, however, as I have already ſhewn you, the very eſſence of the crime lies wholly in the wicked purpoſe or intention. It is not neceſſary, as in other crimes, that the purpoſe be carried into effect; but the very heart is to be looked into, and if the deliberate and wicked purpoſe is found there, it is the crime of Treaſon. The law requires, indeed, that the traiterous purpoſe muſt be manifeſted *proveablement* by open deed; that is to ſay, by overt acts ſufficiently proved; but as it is the criminal purpoſe that is the object of puniſhment, ſo the overt acts are only the manifeſtation of the traiterous intention, and are not to be regarded nor held of any weight, excepting in ſo far as they amount, to clear manifeſt and unequivocal proofs, of the wicked purpoſe of compaſſing and imagining the death of the King.

My Lord Chief Juſtice Coke, in the 3d part of his inſtitutes, where he treats of the crime of High Treaſon, frequently repeats the maxim, *Actus non facit reum niſi mens ſit rea*. It is not the *deed* that makes the guilt; but it is the *guilty mind* that conſtitutes the crime. You are to look, therefore, Gentlemen, to the intentions and imaginations of the heart. You are to conſider the overt acts only in ſo far as they may manifeſt the wicked intention. You are ſcrupulouſly to weigh the overt acts, and conſider whether they afford proof of that wicked deliberate and malicious purpoſe of the heart, and whether they carry home to your own minds and conſciences a clear and full conviction of the *compaſſing and imagining the death of the King*, which is the crime charged in this indictment.

Gentlemen, I have dwelt the longer upon this, and have enforced the more earneſtly the principles I have ſtated, becauſe I think they are peculiarly applicable to a caſe ſuch as the preſent. In every indictment, where the ſpecies of Treaſon charged is the *compaſſing or imagining the death of the King*, the overt acts laid, muſt be *ſuch* as clearly prove and

manifeſt that traiterous purpoſe. This, as your own good ſenſe will at once ſuggeſt to you, muſt be a very nice and delicate matter. Hard it is, to dive into the receſſes of the human heart; and yet, till you do this, and ſee it in the cleareſt and fulleſt light, you are not, as men of honour and integrity, entitled to conclude, that guilt is proved, nor to conſign your fellow citizen to that puniſhment which is due to thoſe only who are truly guilty of the crime that is charged.

And this leads, Gentlemen, to a conſideration which I deem of great importance, and which regards *the nature of overt acts*, as requiſite to ſupport an indictment, where the charge is, the *compaſſing or imagining* the death of the King.

There may occur certain times and ſituations, where circumſtances, which in themſelves are ſeemingly very ſlight, may yet juſtly be held *ſuch overt acts*, as clearly and concluſively to prove and demonſtrate the traiterous purpoſe. But while, as I ſhall immediately ſhew, this not only may be, but at certain periods actually has been the caſe; yet, upon the other hand, there may full as certainly exiſt periods and conjunctures, where it would be dangerous and perilous in the extreme, from any circumſtances, or any overt acts, other than thoſe of the moſt infallible and unambiguous kind, to form the concluſion of guilt.

I think I may well and ſucceſsfully illuſtrate this, by taking a very ſhort review of the trials for High Treaſon, ſince the glorious æra of the Revolution in 1688. After King William aſcended the throne, and during his reign, repeated attempts were made to overturn the government, and there were even ſome conſpiracies for the aſſaſſination of the King. In like manner, after the Illuſtrious Houſe of Hanover was happily ſeated on the Throne, different efforts were made by the exiled family and their friends, to excite rebellion, and reſtore the Houſe of Stewart. This produced, firſt, the rebellion 1715, ſoon after the acceſſion of George I., and afterwards the rebellion 1745, during the reign of his late Majeſty, King George II.

Almoſt the whole caſes that have occurred of Trials for High Treaſon ſince the year 1688, have ariſen from the ma-

ny repeated, but moſt fortunately unſucceſsful endeavours of the exiled family to recover the Throne. In theſe trials, much argument and diſcuſſion ſeem to have taken place, regarding the *overt acts* requiſite for proving the compaſſing or imagining the death of the King; and, in many of theſe caſes, facts and circumſtances apparently very ſlender, have yet been held ſufficient to manifeſt the Traiterous purpoſe.

It is needleſs for me to tire you with going through a number of different caſes. I ſhall take one as an example of the whole, and it is the caſe of Lord Viſcount Preſton, who was tried in the year 1690, upon an indictment for compaſſing or imagining the death of the King. His Lordſhip and two other gentlemen had procured a ſmack to tranſport them to France, but were ſtopped before they got out of the river Thames, and their papers ſeized. Among the papers, was found a ſcheme intended to be laid before the French King, or his miniſters, for invading the Kingdom in favour of the Pretender, with many letters, notes, and memorandums, all tending to the ſame purpoſe. Lord Preſton, late at night, went into a boat at Surry Stairs, in which he was conveyed to the ſmack that was to convey him to France, but was ſeized before he had got out of the river.

Upon his trial, Lord Preſton inſiſted that no overt act was proved upon him in Middleſex, where all the overt acts were laid; for he was taken with the papers in the county of Kent. But the court told the jury, that if, upon the whole evidence, they did believe that his Lordſhip had an *intention* of going into France, and to carry thoſe papers thither *for the purpoſes charged in the indictment*, his taking boat at Surry ſtairs, which are in Middleſex, in order to go on board the ſmack, was a ſufficient *overt act* in Middleſex. Every ſtep taken for thoſe purpoſes, was an overt act; and accordingly the Jury found him guilty.

Here you ſee, that this ſeemingly trivial and ſlight circumſtance of his taking boat at Surry ſtairs, was held a ſufficient overt act of the treaſon charged; but then, you will remark, Gentlemen, that there being a clear, definite, and unambi-

guous *object in view*, and to which the overt act was to be applied, ſo, every ſtep taken for accompliſhing that object, was an overt act demonſtrating the traiterous purpoſe. Nothing leſs than depoſing and deſtroying the King *could* be the object in view; for the reſtoring the Pretender was utterly incompatible with the preſervation and ſafety of the King upon the Throne.

The papers and letters found upon Lord Preſton, clearly demonſtrated what was intended; for they were written in proſecution of certain determinate purpoſes, which were all treaſonable, and then in contemplation of the offenders. Any ſtep, therefore, even the taking boat at Surry ſtairs to go into France, was an overt act ſufficiently plain and manifeſt. As my Lord Holt ſaid to the Jury, "If any one can *deſign* "*innocently* to go to France at this time of the day, with "ſuch papers, and in ſuch a manner, I leave to the Jury's con-"ſideration."

I might go through a great variety of other caſes of Treaſon that have occurred ſince the Revolution, but it is altogether unneceſſary, as they would only illuſtrate the ſame thing. In all of them, the invariable object has been to reſtore the exiled family to the crown, and for that purpoſe to depoſe and dethrone the King in poſſeſſion. The *purpoſe*, therefore, was certain and determinate, ſo that not even a doubt could be entertained about it; and when that was the caſe, overt acts, even of the ſlighteſt kind, might be held ſufficient, it being impoſſible that any ſteps towards reſtoring the Pretender *could mean any thing leſs than depoſing the King*.

But, Gentlemen, it would be moſt unjuſt and unfair, to infer, that circumſtances equally ſlight, ſhould be held ſufficient overt acts, where the ſituation is widely different, and where there is *no ſuch clear and determinate object* to connect with a traiterous purpoſe. In order to fix the exiſtence of the traiterous intention, it is neceſſary, that there ſhould, in the firſt place, be proof that the object in view is clearly and certainly to *affect the perſon of the King*. Without evidence of ſuch certain and determinate object, it muſt be

unjuſt to *ſuppoſe* a traiterous purpoſe, or to hold, as overt acts, facts and circumſtances, which may have had for their object, ſomething exceedingly different from any ſuch moſt wicked and criminal deſign.

It would be a dangerous thing, indeed, and would be bringing the liberty and ſecurity of the ſubject into a moſt perilous condition, if, upon the bare *ſuppoſition* of the exiſtence of a deſign to dethrone the King, and overturn the government, any Jury was to interpret into *overt acts of Treaſon*, facts and circumſtances, which, if there be no ſuch object in view, may be either in themſelves altogether innocent, or at leaſt infinitely leſs criminal, than to deſerve the denomination of *High Treaſon*. It becomes you, therefore, Gentlemen, and it is a duty which you owe to yourſelves and to your country, to proceed with the niceſt caution and circumſpection. Before you admit circumſtances in the conduct of any man, *as overt acts of a treaſonable purpoſe in his mind*, you muſt be well aſſured, and have indubitable proof, that there did exiſt a *certain and determinate object*, towards accompliſhing which theſe overt acts tended; or, in other words, that there was a *a fixed purpoſe of compaſſing or imagining the death of the King*. Nay, more, you muſt ſee that object clearly connected with, and brought home to the perſon accuſed; for otherwiſe you cannot fix *upon him* the traiterous purpoſe, let the exiſtence of the ſcheme be ever ſo certain.

I am much afraid, Gentlemen, I have detained you too long with theſe general obſervations reſpecting the law of High Treaſon. Happily for the peace and tranquillity of this country, we are little acquainted with trials of this kind, and the ſubject being new to you, I thought it my duty to endeavour to explain, as clearly as in my power, what I conceive to be the principles of the law of Treaſon, ſo far as any ways material for the conſideration of the preſent caſe. I ſhall now proceed to offer you ſome obſervations upon *the evidence* which you have this day heard; and the attention with which you have hitherto honoured me, induces me to

hope, that you will patiently liſten to what I have yet to ſay.

Gentlemen, you have heard the indictment againſt the priſoner read, and you have heard it recapitulated and enlarged upon by the counſel for the crown. It is very long, and I will not tire you now by going over the ſeveral parts. I have already obſerved, that, though branched out into a great number of different articles, yet, upon the whole, the only ſpecies of Treaſon charged, is that of *compaſſing or imagining the death of the King*. Not being accuſtomed to this very prolix form of indictment, I find myſelf loſt and bewildered in its verboſity, and endleſs repetitions. I preſume, however, that the various articles or counts, into which it is branched out, are meant as ſetting forth ſo many different *overt acts* of the ſpecies of treaſon charged. In place, therefore, of following the indictment minutely, I ſhall now confine myſelf to thoſe particulars which the proſecutor ſeems chiefly to have reſted upon, as the *overt acts* in ſupport of his charge, and to which, accordingly, the proof which he has this day brought, has been directed.

The *firſt* branch of the evidence adduced on the part of the proſecution, was, as you were told, to explain and point out to you the nature and the ſpirit of the meaſures of that meeting called the *Britiſh Convention*, which was held here ſometime in the end of laſt year. Evidence was introduced, likewiſe, reſpecting the objects of a ſociety held in London, called the *London Correſponding Society*, and you have had printed papers and letters produced to you regarding certain proceedings of that ſociety. And the great purpoſe of all this evidence is, to connect together, as intimately as poſſible, the views and objects of that ſociety in London, with thoſe of the Britiſh Convention, and the Society of the Friends of the People in Scotland.

I muſt remark, Gentlemen, that in all this, the counſel for the proſecution have taken a very wide and extraordinary range. Societies, in two diſtant and different parts of the united kingdoms, are thus endeavoured to be blended toge-

ther, although compoſed of individuals totally different; and every meaſure adopted by the one, is not only to be ſuppoſed the meaſure of the other, but every the moſt wild, frantic or intemperate propoſal or expreſſion of any raſh individual in the one, is not only to fix that character upon the whole of that numerous Society to which he belongs, but at once to transfer and to contaminate with the ſame character a diſtinct ſet of men at ſeveral hundred miles diſtance.

I will not detain you by going through the papers which were produced and which you this day have heard read, but I muſt take the liberty of offering ſome general remarks upon the whole of this branch of the evidence, and what weight or influence it ought to have upon your minds, in conſidering the caſe of the unfortunate priſoner at the bar, whoſe life is now in your hands.

It is a fact well known to all of you, that for a number of years paſt, there have been many perſons who have thought that there were abuſes requiring correction, and that for this purpoſe certain reforms in the Conſtitution of Parliament were neceſſary. Whether this opinion be well or ill founded, I do not think it in the leaſt degree material for me to inquire, nor would it be proper here to enter into ſuch a diſcuſſion. I will be allowed to ſay, however, that it is an opinion which has at leaſt extenſively prevailed, and has been countenanced and ſupported by many perſons, not only of the higheſt rank and moſt reſpectable characters, but Men, as zealouſly and ſincerely attached to the Government and Conſtitution of this country, as any in the kingdom. It has been repeatedly the ſubject of diſcuſſion in Parliament, and it has been an object, zealouſly purſued by many ſocieties and bodies of men in different parts of the kingdom, and this for a courſe of years paſt, without incurring the cenſure or meeting with any check from Government. Indeed, while men act upon an opinion, of the juſtice of which they have an honeſt conviction, and while they purſue that, in a perfectly fair, legal, and Conſtitutional way, it is impoſſible,

that in this free and happy country, they can meet with either cenſure or reprehenſion.

I have ſaid thus much, Gentlemen, becauſe I wiſh you to remember and keep it in your view, that every man who is friendly to Reform and even zealous for promoting it, is not upon that account, to be ſet down as a perſon entertaining hoſtile intentions againſt the Law and Government of the country. There are many perſons warmly attached to Reform, whoſe views are not only the moſt pure, and whoſe love of the Conſtitution is not only the moſt thoroughly ſincere; but who, from their very ardour, for preſerving the Conſtitution in its utmoſt purity, cheriſh the idea of Reform, and purſue the completion of it with enthuſiaſtic zeal. Whether their idea be right or be wrong, it is of no conſequence. While they purſue it fairly and honeſtly, they certainly can incur at leaſt no blame; and I earneſtly requeſt of you to remember, that thoſe who are friends to Reform, are not upon that account to be ſuppoſed or preſumed enemies to the Conſtitution; for if you did, you would raſhly involve in that deſcription, not only many honeſt, ſincere, and well meaning men, but alſo ſome of the moſt pure, the moſt enlightened, and the moſt exalted characters in this nation.

And, Gentlemen, I muſt beg leave to go a little farther, and while you are to be careful not to preſume, that men, becauſe they are friends to Reform, are therefore hoſtile to Government, I muſt entreat of you alſo to reflect, that in ſocieties or aſſemblies of men, you are not to conclude, that the extravagant, the wild, or the intemperate opinions and ideas of *ſome* are the opinions and ideas of *every other perſon* of which the ſociety or meeting may be compoſed. In all ſuch numerous aſſemblies, there will often ſhoot up violent and turbulent ſpirits, whom the more ſober and moderate may for a time be unable to reſiſt; but becauſe ſuch intemperate men may for a while rule, and give the colour of their own minds to the proceedings of the meeting, it would be hard to condemn the whole, in one indiſcriminate heap, and ſo involve the innocent with the guilty. Let every man be reſponſible for him-

ſelf alone. In common fairneſs and in juſtice, we ought to ſeparate and diſcriminate; and till a man is proved to be *himſelf guilty*, do not let us involve him in the guilt of another.

We have heard much to day of what paſſed in the meeting at the Globe Tavern in January laſt, and of the proceedings at Chalk Farm upon 14th April. I am exceedingly far from wiſhing to vindicate thoſe meetings, and ſtill leſs will I attempt to juſtify their wild and extravagant proceedings; but, notwithſtanding this, I am willing to believe, that there muſt have been many individuals, who, however well diſpoſed to ſupport the cauſe of Reform to a certain extent, would never have adopted any violent and inconſiderate ideas of the leaders of thoſe meetings, but, on the contrary, if they had ſeen any ſuch farther purſued, or about to be ſeriouſly carried into effect, would at once have reſiſted them with their utmoſt force, and if unſucceſsful in that reſiſtance, would inſtantly have relinquiſhed and abandoned a ſociety, whoſe meaſures were not calculated to promote Reform, but to produce Anarchy and Confuſion.

You have been told, Gentlemen, that towards the end of laſt year, and in the beginning of the preſent, the object of the different ſocieties for Reform, came to aſſume a new appearance. The obtaining a Reform of the repreſentation in Parliament, was ſtill held out as the oſtenſible pretext, while, in fact, as we are told, more daring and criminal deſigns were ſecretly in view. In ſhort, is is ſaid, the plan was to aſſemble what was to be called a *General Convention*, to be compoſed of Delegates from various ſocieties, meetings, and aſſemblies of men in different parts of the kingdom, and which was intended, forſooth, *to ſuperſede the houſe of Commons in its repreſentative capacity, and to aſſume to itſelf all the Functions and Powers of a National Legiſlature.*

If there really did exiſt ſo daring a deſign, it was not leſs wicked and criminal, than mad and abſurd in the extreme. It could ſpring up, only in the brain of perſons that were inſane, and could not ſeriouſly exiſt in the rational mind of any

ober thinking man. The wild, and intemperate language, and proceedings of the Globe Tavern, and Chalk Farm meetings, might indeed juſtly awaken the attention of Government, and might render it wiſe to keep a watchful eye over ſuch men, and to take the requiſite meaſures for preventing that General Convention, which, if it ſhould be actuated by ſo intemperate a ſpirit, might be productive of dangerous conſequences. But while I may readily admit this, I muſt at the ſame time own, Gentlemen, that I feel in my own mind ſuch a love and veneration for our excellent Conſtitution, and I place ſuch confidence in the good ſenſe of the people of Great Britain, and in their full conviction of the bleſſings of that Government under which they live, that I can ſcarcely ſuffer myſelf to entertain an idea that this propoſed General Convention, even if it had aſſembled, *which it never did*, would ever have given their concurrence and ſupport to any meaſures inimical to Government, or have gone a ſingle ſtep farther than to take fair, legal, and Conſtitutional meaſures for renewing their applications to Parliament for obtaining a Reform.

I beg leave to ſay again, Gentlemen, that I am very far from wiſhing or attempting to juſtify the proceedings at the Globe Tavern or at Chalk Farm; or in ſhort of any ſuch meetings; and I think Government acted cautiouſly and wiſely in uſing means to prevent the propoſed General Convention. But, however prudently Government might act in this reſpect, you will remember, alſo, that the General Convention *never did aſſemble*; and I cannot help, therefore, thinking it rather hard to conclude, with any certainty, what would have been the proceedings and the reſolutions of that aſſembly, if they had ever been brought together. What may be a ſufficient cauſe of alarm as to what poſſibly *might happen*, can be no juſt ground for concluding, that what was dreaded certainly *would have happened*, had the Convention met. I feel a perſuaſion in my mind, nay, I have not a doubt, that if that Convention had ever aſſembled; and if there were any perſons who had formed dangerous or criminal deſigns, they would have found their views completely fruſtrated and diſappointed. When the criſis arrived, and when it was to be finally re-

ſolved *what* meaſures were to be purſued, reaſon and good ſenſe muſt have prevailed; and all the angry expreſſions, and all the haſty, raſh and intemperate reſolutions and publications which had been before ſent forth, would have vaniſhed, as *ſound and fury, ſignifying nothing.* When brought to the brink of the precipice, they would have pauſed, and wiſer and cooler men, with that irreſiſtible influence, which the dictates of ſound reaſon muſt ever command, would have taught them, that the excellent Conſtitution under which they lived, would be but ill exchanged for Anarchy and Confuſion; that this, however, would be the too certain reſult of any raſh attempt to ſubſtitute another in its place; that any requiſite and ſalutary Reforms, would be beſt attained by thoſe known and legal means which the Conſtitution itſelf had provided; that their demands, if juſt in themſelves, would ultimately be complied with; that, in the mean while, they ſhould learn to value that peace, ſecurity, and happineſs which they enjoyed; and not, by impatient and inconſiderate violence, tear to pieces the whole fabric of Government, and involve themſelves and their country in confuſion and diſorder.

Reaſoning, ſo ſound and ſo convincing, would infallibly have prevailed; and, at any rate, I ſurely may at leaſt ſay, that it would be unfair to form any unfavourable concluſion as to what *would have been* the conduct and proceedings of a Convention, which it is admitted *never did aſſemble.* The very purpoſe of this intended Convention, ſeems to have been, to know and to collect the ſentiments of the Friends of Reform in different parts of the kingdom; and as there is no doubt that the views of men were exceedingly different, both as to the extent of any reform to be ſought, and as to the manner and time of applying for it, ſo I think it would be unjuſt to preſume that the Convention would have come to any criminal reſolutions; and ſtill more unjuſt to preſume that every ſet of men, who thought of ſending delegates to that Convention, had no other view nor purpoſe, than to ſuperſede the Houſe of Commons, and to aſſume all the functions and powers of that Aſſembly.

But, Gentlemen, I am afraid I have dwelt too long upon this; and I would not have thought it neceſſary to ſay ſo much if we had not this day heard at ſuch length of the proceedings at the Globe Tavern and at Chalk Farm, with the view of aſſimilating the ſpirit and purpoſes of thoſe meetings, and of the intended General Convention, with that of ſome of the meetings and ſocieties of the Friends of the People in this country. For this reaſon, I thought it my duty, to trouble you with the obſervations I have ſuggeſted, in order that you might not be apt to form too haſty concluſions; that you might not be led to ſuppoſe criminal deſigns without the cleareſt proof; that you might not transfer the guilt of one man, or of one ſet of men, to another; but that you might diſtinguiſh, and carefully conſider, what is the real nature and amount of the offence, and whether even the being guilty of that offence, is brought home to the perſon accuſed?

With regard to the priſoner now at the bar, he was No member of the London Correſponding Society, nor had he any concern in the proceedings either at the Globe Tavern or at Chalk Farm. Indeed, no ſuch thing is even pretended; and as to his having been a member of that meeting called the *Britiſh Convention*, which aſſembled at Edinburgh in December laſt, you will remember, that this day when I oppoſed the admitting any proof of that, I was told by the Gentlemen on the other ſide, that they did not care whether they proved Mr Downie a member of the Britiſh Convention or not, becauſe all they wiſhed for, was to ſhow you what they were pleaſed to call *the genius, the ſpirit, and the views of that meeting*. In ſhort, they did not mean to criminate him *on that account*; and indeed they *could not*, becauſe, in the proſecutions before the Court of Juſticiary againſt certain perſons for having been in that Convention, the Crown had adduced Mr Downie as a witneſs in ſupport of that proſecution; and having there given his evidence fairly, he could not be himſelf proſecuted for that offence.

After having laid before you ſome of the proceedings of this Britiſh Convention, the next thing endeavoured to be proved, was, that after this Convention had been diſperſed by my wor-

thy and reſpectable friend the Lord Provoſt, in ſome place where they had aſſembled in Edinburgh, they again preſumed to meet in another place on the ſouth ſide of the town, and which place, being out of the juriſdiction of the City Magiſtrates, the Sheriff went there, and again diſperſed them. After this ſecond diſperſion, you have heard, that a number of theſe people went to a Maſon Lodge in the Canongate, where they held a ſort of meeting, and afterwards once or twice aſſembled ſomewhere elſe.—You have been further told, that there was formed what was called a *Committee of Union*, conſiſting of delegates from the different Societies of the Friends of the People in the City of Edinburgh and its neighbourhood; and the object of this Committee, was, to carry on the purpoſes of Reform. This Committee of Union being rather numerous, named a ſmall ſub-committee, which was called the *Committee of Ways and Means*, and of this Committee of Ways and Means, Mr Downie, the priſoner at the bar, was a member.

Now, Gentlemen, I beg leave to repeat again what I formerly ſaid,—that I have no wiſh nor deſire to vindicate theſe attempts to continue ſuch meetings, after they had been checked and diſapproved of by the government of the country. I am very far from commending that ſpirit, and you may fix what blame you pleaſe upon it; but you will take care, that, out of your diſlike and diſapprobation *of that*, you do not go a ſtep beyond what you ought to do, and connect it with what it has no real connection, I mean the crime of *High Treaſon*. I dare to ſay, that there were many Friends of the People in that Committee of Union, who had not even an idea of employing force and arms againſt the government of the country. They had it impreſſed on their minds, that a Reform was neceſſary; and, in the breaſts of ſome violent zealots, there might perhaps lurk even criminal deſigns; but I firmly believe, that in the great multitude of them, there was not even the moſt diſtant idea of trying, by force of arms, to compel that which they wiſhed. As to their perſevering and continuing to meet in ſpite of the Lord Provoſt and the Sheriff, they moſt certainly did exceedingly wrong; but what is

the amount of that wrong? Let it be punished according to its degree of demerit; but, from that circumstance of their meeting privately, when they could not do so publickly, do not conclude that these men were intending *High Treason*. Do not confound two things which are perfectly separate and different. Let the boundaries of crimes be kept clear and distinct. Let each meet with its proper punishment, but do not mistake one for another, nor construe *into High Treason*, an offence that is infinitely less criminal.

It will not be said, that any proceedings in this Committee of Union were more culpable than those of the British Convention, which was dispersed; and you have seen, Gentlemen, that the measures of that Convention were not construed to be High Treason. Margarott, Gerald, and others, who were active in that Convention, were brought to trial before the High Court of Justiciary; and the crime charged against them was not Treason, but only *Sedition*. Had it been *Treason*, we should have heard of it *as such*; but they were tried and punished for *Sedition*, and are now suffering the punishment of that offence. Nay, farther, even those persons concerned in the proceedings at the Globe Tavern, and at Chalk Farm, if they had been supposed guilty of High Treason, would have been prosecuted and tried for that crime, and yet no such thing has happened. We are told, indeed, there is an *intention* to prosecute them, but of that you most certainly have no evidence; and you have no right to hold, nor conclude, that the members of this Committee of Union, were guilty of at least any greater offence, than that which, in the members of the British Convention, was found to be only *Sedition*.

And here, Gentlemen, let us attend a little to the evidence regarding the Committee of Union, and the Sub-committee of Ways and Means. The first witness called was George Ross, a clerk in the Gazetteer Office, and who kept also a kind of Tavern, where these Committees were accustomed to meet. Not having been a member himself, he is not certain whether there were two Committees, or only one, but that

he heard of one called a Committee of Union: that he has ſeen Mr Watt, Mr Stoke, Mr M'Ewan, Mr Downie, and Mr Bonthorne, preſent at thoſe meetings, and that ſometimes a greater number attended. He mentions that he received from Mr Stoke copies of a letter from the Correſponding Society at London, which he was directed, and which he did accordingly ſend by poſt to Perth, and, as he thinks, alſo to Paiſley and Strathaven; and he adds, that he received theſe letters from Stoke alone, and does not think any other perſon was preſent.

The *next* witneſs was William Macubbin, a writer, who was one of the Friends of the People, and a member of the Committee of Union. He was preſent at the Britiſh Convention, and deſcribes in what manner they were diſperſed, *firſt*, by the Lord Provoſt, and afterwards by the Sheriff; he ſays, the object of the Committee of Union was, to keep up a connection between the different ſocieties in Edinburgh for Reform, and that he underſtood the object of the ſubcommittee to be for the purpoſe of collecting money, in order to diſcharge the debts already contracted; to relieve Friends of Reform in diſtreſs, and likewiſe to defray the expences of ſending delegates to a new Convention. He ſays, it was likewiſe talked of, that the money collected, was to buy political publications; and, that another purpoſe of the Committee, was to collect the ſentiments of the Friends of Reform at a diſtance, ſo as to know what their views and objects were, ſome thinking Univerſal Suffrage too violent a demand; and a good deal of diverſity of opinion prevailing, as to the extent of Reform to be ſought for.

The *third* witneſs, was William Binning, a ſchoolmaſter, a member and the clerk of a ſociety of the Friends of the People at the Water of Leith. He mentions, that about three weeks after the diſperſion of the Britiſh Convention, that Water of Leith ſociety met and ſent three delegates to the Committee of Union, the object of which was to carry on the purpoſes of Reform, by an application to Parliament. He remembers

alſo, of there being a Collector appointed, whoſe buſineſs was to collect the ſentiments of Friends as to Reform, and to collect money for the relief of Mrs Skirving, and other ſuch perſons in diſtreſs, and that the money was to be applied by the Committee of Union.

Arthur M'Ewan, the *fourth* witneſs, is a weaver at the Water of Leith, and a member of a ſociety there of the Friends of the People. He mentions his being one of the delegates ſent by that ſociety to the Committee of Union, and that he attended the meetings of that committee in the houſe of George Roſs. He mentions, that this Committee of Union choſe a ſub-committee of ſeven, and that theſe were Mr Stoke, Mr Burke, Mr Watt, Mr Aitchiſon, Mr Downie, Mr Bonthorne, and himſelf, and that the buſineſs of the ſub-committee was to get money to pay their debts, and to aſſiſt Mrs Skirving, and other friends in diſtreſs.

The *fifth* witneſs, is William Bonthorne, a ſchoolmaſter, and a member of the ſociety of the Friends of the People at Broughton. He mentions, that this ſociety ſent delegates to the Committee of Union, and that he was one of them.—He was likewiſe one of the ſub-committee of ſeven, and his account of all this, being in ſubſtance the ſame with that of M'Ewan, and the other witneſſes, I need not detail it. But it may be obſerved, that both this, and the other witneſſes mention, that Mr Downie, the priſoner, was underſtood to be, and acted as Treaſurer for the *Committee of Union*, and, that whatever money was to be collected, was to be under the direction of *that Committee*.

In the courſe of the examination of theſe witneſſes, you would perceive, Gentlemen, that the proſecutor put his queſtions in ſuch a manner, as to ſhew that he meant to lay a great deal of weight upon the circumſtance of its being an object of theſe Committees *to collect money*; but I think I can moſt ſucceſsfully meet him upon that head; and when you ſhall fairly conſider the evidence, I am confident, Gentlemen, that you will be of my opinion.

I believe you will readily admit, that the collecting of

money might either be criminal, or, on the other hand, perfectly innocent, according to the purpoſe for which it was intended. You know very well, that for a number of years paſt, the object of obtaining a Reform, has been purſued by many Societies, in many different parts of the country, and while it is purſued by regular, peaceable and Conſtitutional means, there can be no room for any blame or cenſure. Men may differ in opinion as to the neceſſity of Reform, but their *right* to ſeek it in a legal way cannot be queſtioned. In order, however, to carry through, and to ſupport the fair and legal applications for this purpoſe, a fund is requiſite for defraying the unavoidable expence; and accordingly, ever ſince the idea of a Reform has exiſted, there has not been a ſociety for that purpoſe, in any part of the kingdom, that has not collected ſuch ſmall ſums, as they were ſeverally able to contribute, for bearing their ſhare of that expence; and it will not ſurely be ſaid, that in doing this, there was any thing either criminal or improper.

But you will perhaps be told, Gentlemen, that in this Committee of Union, the collecting money could be for no ſuch fair and blameleſs purpoſe, and that Parliament having rejected the applications for Reform; and afterwards the Britiſh Convention at Edinburgh having been diſperſed by the Civil Magiſtrate, ſo this ſubſequent meeting, under the name of a Committee of Union, could not have in view to collect money for any juſt or legal purpoſe.

I muſt confeſs, Gentlemen, that I do not in the leaſt feel either the juſtice or the force of this reaſoning. The rejection by Parliament could not, in the leaſt degree, prevent nor render illegal, a renewal of the application in a conſtitutional way. Are theſe people to be held criminal for thinking that they were at liberty to apply again to Parliament for a redreſs of thoſe grievances, of which they thought they had reaſon to complain? Nay, farther, if they ſhould have thought that an application to the Houſe of Commons was in vain, what was there in law, to hinder them to petition the King?

What is there to hinder any ſubject or ſet of ſubjects in this realm, to petition the King, if they do ſo in a dutiful and Loyal manner? I hold it as an inherent principle in our Conſtitution, and I will maintain it to be the unqueſtionable birth-right of every Britiſh ſubject, to go to the foot of the Throne, and dutifully to petition his ſovereign. This has been mentioned as one view which theſe meetings had; and will it be ſaid, that this could be criminal? Can any one preſume to blame this? Or to ſay, that a petition to our moſt gracious Sovereign is to be interpreted into a deſign to compel and coerce him, or to be conſtrued into a treaſonable purpoſe?

We are told, indeed, that a Reform was but the oſtenſible pretext; and that while theſe ſocieties and meetings held out, that they were to ſupport the Conſtitution, as eſtabliſhed in King, Lords, and Commons, yet all this was no better than a mere diſguiſe, and that, at bottom, nothing elſe was meant, but to pull down the King, and deſtroy the Conſtitution. I cannot believe, however, Gentlemen, that ſitting as a Jury, you will think yourſelves entitled to form any ſuch concluſion, in the face, and directly againſt the plain meaning of words, and the fair expreſſions of theſe declarations. If there truly was any ſuch wicked purpoſe, it could only be in the ſecret minds of a few wicked men, enemies of their country: and I am confident, you will not, for a moment, entertain the belief, that thoſe numerous perſons who compoſed theſe different ſocieties, were acting throughout under a maſk, and had nothing elſe in their view, but the overthrow of the Conſtitution, and Government of this country. I will be bold to ſay, you are not warranted, and cannot, in good conſcience, allow yourſelves to give effect to ſuch an idea, nor to put ſo harſh and unfair a conſtruction upon the intentions of the Friends of Reform, in oppoſition to their own clear, explicit, and ſolemn declarations.

And, in order to be compleatly ſatisfied of this, I muſt requeſt you will attend to the evidence you have this day heard, as to *the amount of the money* collected by this Committee of Union. All the witneſſes mention, that it was exceedingly trifling, and that it conſiſted chiefly of a few pence, paid

at the meetings by the different members. William Bonthorne in particular, says, that very little money was collected, and that the whole object of the collection was, for discharging some trifling debt already contracted; and that after paying this, the rest was to be applied for relieving Mrs Skirving, who was in a very necessitous situation after the banishment of her husband; and for defraying the expence of sending a delegate to a new Convention. The very largest sum, if it can deserve the name of large, that at any time came into the hands of the Committee or their treasurer, was 15l. sent from Perth by Walter Millar, whom you heard examined as a witness; and he tells you, that it was collected, and sent solely for the purpose of obtaining a Reform in the Constitution of Parliament. All the rest, it seems, that was collected, does not appear to have exceeded a few pounds; and *this*, Gentlemen, was the mighty fund that was to furnish the means of *overturning the state*. The idea indeed is compleatly ridiculous. It was evidently a collection for no other purpose whatever, than to defray the little incidental expences attending their meetings, and for giving some little aid to some of their friends in distress, such as the wife of that unhappy man Skirving.

That was the utmost extent to which it went: And you will attend also, Gentlemen, to the description and situation of those persons who were to overthrow the Constitution by force and by arms. Who were the persons that you are to suppose, were carrying on this daring and criminal design?—You have seen them before you this day; and I fancy you will admit, that they were, for the most part, of as low and poor a description as ever were produced in any place whatever. *Where* then was the money *to come from?* It could not be from these poor people themselves; and, therefore, you have no alternative, but either to suppose that they had here some secret and unknown fund, or that a supply was to come from England, or from France; or you must conclude, that no treasonable design was ever seriously in view, and that the whole has been a mere imagination and chimera.

Had it been discovered, that these people had considerable sums in their hands, or had it been traced out that they had supplies from some other quarter, or in short any fund that could look like bringing about so great an object, as overturning the Constitution, there might at least be some better colour for supposing such a design But it is admitted, that there is not the least reason for supposing that they had any fund, or any supply, excepting what they collected amongst themselves; and when you see how very trifling, paltry, and inconsiderable this was, I presume you will have no hesitation in being fully satisfied, that it could never be collected for the purpose of overturning Government, and that it could never be meant for any thing else, than for carrying through the object of Reform in a fair and constitutional way.

I cannot quit this subject, without taking notice of a curious circumstance, which could not escape your attention; I mean, *the person* who we are to suppose, was employed as the *Ambassador* of this Committee of Union, to travel over the country in order to form associations for overturning the State. You have seen this same *Ambassador*, *Mr John Fairley*, and you have heard him examined; and from his situation in life, his appearance and his demeanour, you will consider how far he is such a person as would be entrusted with so important a negociation? This great man is sent out as their *Missionary*, and he travels *on foot* to Stirling, to Glasgow, to Paisley, and a variety of other towns, in order, it is said, to form that combination which was to carry into effect this great enterprise, of seizing the Judges, the Castle, the Banks, and the other Public Offices in this city, and to overwhelm King, Lords and Commons in one common ruin.

And what was the recompence given to this *confidential Minister*, this *Negociator*, who was sent through the land, in order to atchieve such mighty things? Why, Gentlemen, you have it in evidence, that it was no more than *fifteen shillings* Sterling! Surely the *cheapest* Embassy of which Diplomatic History can furnish an example. He goes from place to place, from society to society, to accomplish the overthrow of this

Mighty Empire, and for all this perilous negociation, and moſt arduous undertaking, he i i return receives.—What?—The enormous reward of *fifteen ſhillings*!

And if, Gentlemen, you could go into ſo fooliſh an idea, as to ſuppoſe, that *ſuch* a perſon could be employed on *ſuch* a miſſion, and for *ſuch* a recompence, can you for a moment conceive it poſſible, that the Committee, if they themſelves had entertained ſuch wicked and nefarious deſigns, could be ſo mad and ſo abſurd as to entruſt *to him* ſo important and dangerous a negociation? It is inded too ridiculous to admit even for a moment of your belief; and affords only an additional demonſtration, that the ſole and only purpoſe, which the Committee had in ſending Fairley, was to collect the ſentiments of the Friends of the People, as to the extent of Reform in which they would agree, and to obtain ſome little pecuniary aid for carrying it through.

I come now, Gentlemen, in the *third* place, to conſider the plan of ſeizing the Caſtle, the Banks, and other Public Offices in this city; and which is held out in the indictment, as an overt act of compaſſing or imagining the death of the King. It is unneceſſary for me to recount to you what were mentioned by the witneſſes, to have been the different objects of this plan; for you have heard how they deſcribed it. Whether the priſoner at the bar had any acceſſion to it, I ſhall afterwards conſider; but, in the mean while, as to the plan itſelf, I am ſure you will agree with me, in thinking, that it is one of the moſt wild, abſurd and impracticable ſchemes, that ever entered into the mind of even the moſt viſionary projector, and could never ſeriouſly have been entertained by any man of common ſenſe and underſtanding.

It is impoſſible, indeed, to underſtand or make any ſenſe of this plan. A fire was to be raiſed in one part of the city; and *this* was to bring the ſoldiers out of the Caſtle. *Then* a force was to run in and ſeize the Caſtle; *then* the Banks and Public Offices were to be ſeized; and *then*, in ſhort, the whole Government.—But, Gentlemen, Where were *the people* that were to do all this? Have you any evidence that there was a

force ready to riſe, in order to accompliſh it? Does *Ambaſſador Fairley* give you ſuch an account of his miſſion, as to induce you to think, that he had got any probability of a concurrence to ſuch a deſign? No, his account is the very reverſe. And *where*, then, was the force to come from, by which the Caſtle was to be ſeized, and all this marvellous plan executed, whereby the Government of this country was to be *taken by ſurprize?* It was to come from nobody knows where—and to be done by God knows whom. This is really ſo completely ludicrous, that it puts one in mind of *Mr Bayes* in the play, who firſt *conceals an army at Knightſbridge*—and *then brings it to the door in diſguiſe*. In ſhort it is a mere phantom, Gentlemen; the mere dream of panic ſtruck minds. It is a ſcheme ſo whimſical and romantic, that it never could exiſt in the mind of any perſon whatever, unleſs perhaps in the diſtempered brain of the unhappy man Watt, who was condemned in this place yeſterday.

Nay, I do not even believe, that it was ever ſeriouſly entertained *by him;*; and I muſt be allowed to form a conjecture, which appears to me by no means unſupported by proof. You ſee, Gentlemen, *this Mr Watt*, in the end of the year 1792, and during a conſiderable part of the year 1793, going to the Lord Advocate, and to Mr Dundas the Secretary of State, with a view to give them *information* of plots and dangerous meetings in this country. You find him giving an account of plots, which never had an exiſtence, and giving information of the diſaffection of troops, where no diſaffection had ever prevailed. In ſhort, you find him creating imaginary plots, in order to give himſelf conſequence and to obtain money.

Having been unſucceſsful in theſe attempts, and ſtill deſirous of purſuing the ſame object, he writes to the Secretary of State, and likewiſe to the Lord Advocate, pretending that he wanted 1000l. for a man who *could* make a diſcovery of great importance. I preſume, Gentlemen, you will be ſatisfied, that if there had been any ſuch important diſcovery to be made, Mr Watt would not have failed to bring it to light,

or to produce or point out the perſon who could diſcloſe it. But the whole was a downright fiction; for neither the plot, nor the man exiſted, nor were ever more heard of; and Mr Watt, finding that he could neither obtain the 1000l., nor get *ſome poſt*, which it appears he had likewiſe ſolicited; and finding all his efforts ineffectual and abortive, he then goes and connects himſelf more cloſely with the Friends of the People; and I do believe, that if he had known or found any perſons ſeriouſly adopting this ridiculous ſcheme of ſeizing the caſtle, &c he would have gone to the Lord Advocate and have ſaid, "*Here* is the important diſcovery I mentioned to "you, and I hope I ſhall *now* obtain my reward."

In ſhort, Gentlemen, I leave this conjecture to *your* conſideration; but, for my own part, I cannot help thinking, that this wild and ridiculous plan was never even ſeriouſly thought of by Watt himſelf; and that he was merely trying, to draw weak and ignorant men into a ſeeming adoption of it, and then to make a ſacrifice of them to his own ſordid and avaricious views.

But, Gentlemen, I have really no occaſion to inquire, what were the views and intentions of Mr Watt in this ſcheme; for unleſs you can connect Mr Downie with the plan, it does not ſignify what it was; and you will therefore conſider, whether there be any evidence to bring it home *to him*, or to ſhew that *he* had any acceſſion or gave any approbation to it.

There are only two witneſſes who ſay any thing as to this, and theſe are Arthur M'Ewan, and William Bonthorne, both of them members of the Sub-Committee of Ways and Means; and who were both preſent, upon the ſingle and only occaſion when this plan was produced by Watt. They deſcribe very particularly every thing that paſſed at that time. They mention, that it was not a regular meeting of the Committee, which met only on fixed nights of the week; nor was it held at the houſe of George Roſs, where they always met. It was an accidental meeting at the houſe of Watt himſelf, who had aſked them to come and take a glaſs with him, without the

leaſt notice or intimation, of his having any ſuch plan to bring under their conſideration.

Now, Gentlemen, there is one circumſtance here to be remarked, and upon which more depends than you may at firſt be aware of, and which is, that there is not only no evidence before you, there ever was the ſmalleſt *notice* previouſly given, that at this meeting in Watt's houſe, any ſuch plan was to be propoſed; but you have clear evidence to prove the very reverſe. They met there, either for conviviality and pleaſure, or at leaſt for no other buſineſs than anſwering or writing ſome letters reſpecting the cauſe of Reform.

At this meeting, the company conſiſted of Mr Stoke, Mr Downie, Mr M'Ewan, Mr Bonthorne, and Watt himſelf; and while they were drinking their glaſs, Watt goes to a cabinet, and takes out a paper, which he brings in his hand, and reads to them, without any preface or previous notice, and without any of them, or, ſo far as appears, any perſon elſe, having ever heard of it before. I ſay there is no evidence, nor even an attempt to prove, that any of the company *ever did hear of it before;* and if there is no evidence that they ever did hear of it before, you are moſt certainly bound to hold, *that they never did.*

In this manner, you have the paper containing this ſtrange plan, brought out by Watt from his cabinet, and read by him. Whether it was of his own hand writing or not, does not appear; but it ſeems to have been underſtood to be his. Now, Gentlemen, obſerve what paſſed. Did Mr Watt enter ſeriouſly into a diſcuſſion of this plan, in order to ſhew the practicability of it, to explain where they might get money or numbers to ſupport it, or to ſuggeſt thoſe different means by which it might be accompliſhed? No —Not a ſingle ſyllable of any ſuch thing, but all at once, he produces this mighty plan, and reads it, not at one of the uſual meetings of the Committee but at an accidental meeting at his own houſe. If he ſeriouſly wiſhed for the approbation of the Committee, any man in his common ſenſes, would not have brought it forth in this extraordinary and unexpected manner; but would before have had it in his

pocket, and have founded every member *individually*, previous to his producing it to the *whole*, aſſembled together.

And you will particularly remark, what the two witneſſes Arthur M'Ewan, and William Bonthorne, tell you as to what then paſſed. M'Ewan ſays, he immediately *objected* to the plan; and that Bonthorne *backed him*, but that Downie ſaid nothing, ſo far as he remembers, nor Stoke.

This is what M'Ewan ſays; but Bonthorne mentions more particularly, that upon hearing the paper read, M'Ewan ſaid, *he could not approve, nor go into any plan that was to create confuſion, and to ſhed the blood of his countrymen.* And Bonthorne, as he tells you himſelf, was ſo ſtruck with the thing, that he had ſcarce power of recollection any farther than to ſecond M'Ewan, by ſaying, *No, no; by no means.* He farther tells you, that neither Mr Downie nor Mr Stoke ſaid a ſingle word upon the ſubject, but were perfectly ſilent. And both M'Ewan and Bonthorne agree in this, *that there was not a word farther paſſed.* Mr Watt, finding the paper *thus diſapproved of*, took it away without any thing more, locked it up in his cabinet, put the key in his pocket, and ſaid not another ſyllable upon the ſubject.

This, Gentlemen, is the fair amount of the evidence of M'Ewan and Bonthorne; and upon the account they give, which is the only one you have of what then paſſed, I think you are not only to put the natural and juſt conſtruction, but I think you are bound to put the conſtruction moſt favourable for the priſoner at the bar. Let me ſuppoſe, that this had been a regular meeting of the Committee, and this paper or plan was brought forward by one of the members, after which, without being ſupported by any body, it is inſtantly oppoſed by another member, and his objection immediately ſeconded. Now, here then is a meeting conſiſting of five, one of whom makes a motion, which, inſtead of being ſeconded, is immediately oppoſed, and that oppoſition as immediately backed. The other two members remain ſilent; and what is the con-

cluſion to be drawn from their ſilence? Is it not plainly and unequivocally this, that they do not ſupport the original motion, *but concur in and approve of the oppoſition to it?*

Had not Mr Watt, the mover of the buſineſs, fully underſtood this to be the caſe, he would have called for their opinions, and if they had concurred with him, he would have had the majority. But he either was not at all ſerious, or at leaſt found he could get no ſupport; and, therefore, without any thing more, he replaced the paper in his cabinet, and ſaid not another word upon the ſubject. Nay, farther, had not Downie and Stoke totally *diſapproved*, we ſhould have found them arguing in ſupport of the ſcheme, and combating the objections of M'Ewan and Bonthorne, whereas they at once acquieſce, and Mr Watt ſtanding *ſingle*, the ſcheme was *totally rejected*.

You will alſo attend to this, Gentlemen, that this plan was *never again* brought forward by Watt at any other time, nor upon any other occaſion. It never had been heard of before, nor was it ever heard of after; and Bonthorne has told you, that he never conceived it as a plan propoſed in a ſerious way, but conſidered it as a kind of frenzy; and he adds, that the committee *never would have adopted ſuch a plan*. In ſhort, this ridiculous plan never made its appearance, excepting upon the ſingle and ſolitary occaſion which has been mentioned; and then Mr Downie, in place of acceding or giving any ſupport to it, did, on the contrary, acquieſce and concur in its abſolute rejection.

And here, Gentlemen, I muſt be pardoned for troubling you with reading one other paſſage from Mr Juſtice Foſter, becauſe it is exceedingly applicable to the particular now under conſideration. It is, where he is ſpeaking as to what the law holds *an aſſent* to any overtures for compaſſing the death of the King.

He ſays, " If a perſon be but *once* preſent at a conſulta-
" tion for ſuch purpoſes and concealeth it, *having had a pre-*
" *vious notice* of the deſign of the meeting, this is an evi-
" dence proper to be left to a Jury of ſuch aſſent, though

" the party ſay or do nothing at ſuch conſultation, the law is " the ſame if he is preſent at *more than one ſuch conſultation*, " *and doth not diſſent or make a diſcovery*; but in the caſe " of once falling into the company of conſpirators, if the par- " ty met them accidentelly, or upon ſome indifferent occa- " ſion, *bare concealment, without expreſs aſſent*, will be but miſ- " priſon of treaſon."

From this you ſee, that the circumſtance of a perſon being once preſent at a treaſonable conſultation, and there neither ſaying nor doing any thing, does not fix a crime upon him, unleſs he had previous notice of the deſign of the meeting; but if a perſon be preſent a ſecond time at ſuch conſultation, he is held to be himſelf guilty, unleſs he doth expreſsly diſſent or make a diſcovery The law therefore is, that the being only once preſent at ſuch a meeting, without there giving any expreſs aſſent, does not infer the crime, unleſs he had previous notice of the purpoſe of the meeting; and I am ſure you will be under no difficulty of applying this to the circumſtances of the preſent caſe.

You have moſt ſatisfying evidence, that no previous notice, nor intimation, nor even hint of any kind, was ever given either to Mr Downie or any one elſe, that ſuch a plan or paper was to be brought before them. It was never heard of nor mentioned before, but Watt brought it out upon them by ſurpriſe. Nay, farther, Gentlemen, I do not think that the matter reſts merely upon Mr Downie's having given no aſſent; for it is perfectly clear, that he did actually diſſent, as, inſtead of giving any countenance or ſupport to the plan, he at once acquieſced in its rejection. When in any meeting, a propoſal or motion is made by any member, and not ſeconded by any body elſe, it is preſumed to be rejected by all the reſt, even although none are at the trouble of ſpeaking in oppoſition to it; but when it is actually oppoſed, and that oppoſition ſeconded, then, if no body ſupports the mover, the concluſion that all the reſt concur in diſapproving of the motion, is certain and infallible. And together with all this, you will remember what an idle, abſurd, and ridiculous plan this was,

not meriting any ſerious attention, but, as I think, brought forth by Watt, *with the treacherous deſign of inveigling and enſnaring others.*

I might here offer ſome remarks upon the evidence of John Fairley, by which, there was ſome attempt made to connect Mr Downie further with the abſurd plan of ſeizing the caſtle; but I ſhall reſerve ſaying any thing as to this till afterwards, and ſhall now beg leave to go to another point, and which is, the making of the *Pikes or Arms*, thoſe horrible weapons which you had this day *exhibited to your view*, and cannot be preſented, without impreſſing the mind with horror and indignation at thoſe who could be employed in ſuch a buſineſs.

And here, Gentlemen, I am ſure I need not tell ſuch intelligent perſons as you are, that, in trying the preſent caſe, you are carefully to diveſt your minds of every prejudice, and to lay aſide every impreſſion that may have ariſen from your hearing of, or from your beholding theſe weapons.—There are many rumours, alſo, which you may have heard without doors, and many an account of atrocious plots, that never had an exiſtence. It is difficult, I know, to guard againſt the influence of ſuch prepoſſeſſions; but, on that account, it becomes only *the more your duty* to be watchful, and to permit nothing but the evidence you have heard this day, to enter into your mind, when you are entruſted with the life of your fellow citizen.

In what I am thus taking the liberty of ſaying, I am only following what was much better expreſſed by the honourable Judge, who preſides in this Court, and who, in his excellent and candid charge to the Grand Jury, told them, they were not to allow any prepoſſeſſions, nor any extraneous matter whatever, to impreſs their minds in the ſmalleſt degree, but to throw aſide all prepoſſeſſion, and to conſider ſingly and only the evidence that was brought before them. This was the wiſe caution the honourable Judge gave to the Grand Jury, and I hope I ſhall not be thought doing wrong, in endeavouring to impreſs it upon your minds. The Grand Jury had nothing more to do, than to conſider whether there was

ſufficient ground for ſending the matter to trial; but you, Gentlemen, have a much more important charge, for you have now the life of the priſoner in your hands, and, in diſcharging that moſt momentous duty, you muſt, and I am ſure you will, be careful to let nothing enter into your conſideration, but the evidence brought before you.

With regard to the circumſtance of *making theſe arms*, I will endeavour to ſtate to you the ſubſtance of the evidence; and I truſt I ſhall do it fairly. The *firſt* witneſs is William Orrock, a ſmith, who was a member of the ſociety of the Friends of the People, at the Water of Leith, and one of their delegates to the Committee of Union.

He gives you a hiſtory of theſe pikes from the beginning, and mentions, that being one day in ſome place reading the newſpapers, ſomebody there ſaid, *he heard arms had come down for the Goldſmith-hall gentlemen.* Upon this, ſome other perſon ſaid, *they ſhould apply alſo for arms;* but thereupon, Mr Watt, who was preſent, ſaid they *would not get them*, but that he knew no law in exiſtence to hinder them from getting arms for themſelves. Orrock mentions, that then the converſation turned upon the report of an invaſion, and ſaid he thought he could make a weapon for himſelf.—There the matter ſeems to have dropped, but Orrock tells you that ſometime thereafter, he did make aweapon for himſelf.

Orrock next tells you, of his being one day ſent for by Watt to come and ſpeak to him in the houſe of Arthur M'Ewan at the Water of Leith, and he then told Watt what kind of weapon he had made. Upon this, Watt ſaid, a diſferent one would be better, and accordingly Orrock made one agreeable to Watt's directions. After this, he brought up both that which he had made for himſelf, and that which he had made for Watt, to the houſe of George Roſs, where the Committee of Union uſually met. He ſays he did not ſhow them *to the Committee of Union*, but that there was another room where others were met, and where he ſays Downie was preſent. To this company he ſhowed thoſe

weapons, and ſomebody made a drawing of an improved form, and he ſays he was deſired, and as he thinks, both by Watt and Downie, to keep that drawing in his view in making any more. He next tells you, that after he had left the room, and before he quitted the houſe, Watt came to him, and repeated the ſame directions, and that Downie was then along with Watt; and he further ſays, that afterwards *Watt* came to him at his own houſe, and deſired him to make *towards three dozen of them.*

The *next* witneſs was William Brown, likewiſe a ſmith; and he tells you, that, by the orders *of Mr Watt*, he made *fourteen* pikes of one kind, and *one* of another kind, and brought them *all home to Watt.* Upon aſking payment, Watt ſaid he was ſorry he had not money then to give him, but the witneſs mentioning that he needed money at the time, Watt ſaid, that although he had not then money himſelf, he would get it from another perſon, and accordingly he wrote, and gave him an order upon Downie for the money, which was 1l. 2s. 6d. This order did not in the leaſt mention *what the money was for*, and when Brown went to Downie and got the money, he tells you, that *he did not ſay a ſingle word to Downie as to what the money was for, nor did Downie aſk him.* It was an order in the ſame way, as if Watt had been borrowing the money from Downie.

The *third* witneſs is Margaret Whitecroſs, who was maid-ſervant in Downie's houſe laſt winter and ſpring, and ſhe tells you, that one morning ſhe ſaw in her maſter's dining-room, *ſomething*, which the proſecutor would have you *ſuppoſe* was one of thoſe pikes. She ſays, that the night before, her maſter had been abroad at ſupper, and was rather late of coming home. With a candle in her hand, ſhe opened the door and let him in, but ſhe does not ſay that ſhe perceived any thing in his hand, although, ſurely, one of thoſe pikes was not a thing that could be hid from a girl's eye, with a candle in her hand. Next morning early, ſhe goes into the dining-room, and there ſhe ſees *ſomething* lying, which ſhe neither touched, nor took in her hand, *nor hardly* ever looked

at; and Mr Downie's ſon came out of an adjoining cloſet, when he heard her in the room, and took the thing away. She ſays, ſhe heard her miſtreſs afterwards call it a dividing-knife, but ſhe never ſaw it either before or after the time ſhe mentions, and ſaw it then ſo very ſlightly, that ſhe is exceedingly indiſtinct in her account of it. She was aſked whether it was like any of theſe now lying upon the table, and all that ſhe could ſay was, that *it might be like it;* although, ſurely, Gentlemen, none of theſe have any reſemblance to a dividing-knife; and indeed they are ſo peculiar in their appearance, that if what ſhe ſaw in her maſter's dining-room had been one of them, ſhe could not have forgot it.

Now, Gentlemen, you will conſider whether this can fairly be held, as fixing upon Mr Downie any connection with thoſe pikes: She does not pretend to ſay, that ſhe ſaw Mr Downie bring it home, nor did ſhe ever ſee him have it in his hand, nor can ſhe ſay that he ever knew of ſuch a thing being in his houſe. Can you believe, that if it had been one of thoſe pikes, Mr Downie would have been ſo imprudent as to have left it in the open dining-room? And if it had been one of thoſe pikes, would Mrs Downie have ever given it the name of a dividing-knife? a thing to which they do not bear even the moſt remote degree of reſemblance. Nay, farther, if Downie's houſe had been a place for ſecreting and concealing theſe weapons, it is not to be doubted, that a number of them would have been found there; and yet, Gentlemen, you have the moſt ſatisfactory evidence, that although a ſtrict ſearch was made, not even one was found there.

Lockhart and Middleton, the two Sheriff-officers, have been examined as witneſſes, and they both agree that none of the pikes were found in Downie's houſe. Middleton, in particular, ſays, that the ſearch in Watt's houſe was made upon Thurſday, 15th May, between twelve at night, and one in the morning; and that the ſearch in Downie's houſe was made *the very next day;* and although they found pikes in Watt's houſe, they found none in Downie's. Is it likely, then,

Gentlemen, that Mr Downie ſhould have been poſſeſſed of thoſe weapons, and yet not ſo much as a trace of their being either about him or in his houſe.

Brown tells you, that all thoſe which were made by him, he carried home *to Watt.* Thoſe again made by Orrock, were ſeized while they were ſtill in Orrock's own poſſeſſion. The Sheriff-officers tell you, that although they made the ſtricteſt ſearch, yet they could find no ſuch thing in Downie's houſe. Excepting, therefore, the looſe and indiſtinct evidence of Margaret Whitecroſs, the maid-ſervant, you have nothing Gentlemen, that give room even for a ſuſpicion that any one of them ever was in his houſe; and ſhe, not only ſpeaks of what ſhe ſaw, as a thing totally unlike thoſe pikes, but ſhe does not pretend to ſay, that ſhe ever ſaw Mr Downie bring it home, nor take it away, nor, in ſhort, have any connection with it whatever.

Beſides, you know very well, that goldſmiths, like Mr Downie, generally have a ſmelting furnace in their own houſe, and nothing is more uſual for them than to have old ſwords and piſtols, or other ſuch arms, from which they take what metal they find of any value. Why, therefore, might not Mr Downie moſt innocently have ſome old weapon in his poſſeſſion, which might be, what this ignorant maid-ſervant alludes to, as being like a dividing-knife. Why, upon ſo inaccurate and indiſtinct a deſcription, are you to conclude that it was actually one of thoſe pikes? There are many perſons who have curious collections of arms, guns, ſwords, pikes, and daggers; and it would be hard and ſtrange, indeed, to conclude from thence, that they had them for a treaſonable purpoſe.

In ſhort, Gentlemen, I think you can lay no weight whatever, upon the vague evidence of this ignorant girl; and as to the only two other witneſſes, Brown and Orrock, it muſt be perfectly evident, that neither the one nor the other bring home any thing criminal to Mr Downie; and, indeed, the evidence of Brown does not touch him, even in the ſmalleſt degree.

Brown tells you, that it was *Mr Watt alone* who employed and directed him to make theſe pikes, and that no other perſon ever ſpoke to him upon the ſubject. He made them *for Watt*, and when they were made, he carried them home *to Watt*. Downie was not preſent when the order was given, nor is there the leaſt reaſon to ſuppoſe that he knew any thing at all of the matter. As to the circumſtance of Brown's receiving payment from Downie, you have heard how it happened. Watt, not having the money when Brown preſſed for it, gave an order upon Downie for it; but that order did not expreſs what the money was for; and Brown expreſsly tells you, that he neither told Downie what it was for, nor did Downie aſk him. In ſhort, it was nothing more than the trifling ſum of 1l. 2s. 6d. which Downie advanced for Watt, without inquiring or knowing what it was for; and you have no reaſon to ſuppoſe, and ſtill leſs any right to conclude, that Downie knew, the money he thus advanced was for making pikes.

Any thing ſaid by Brown, therefore, does not, in the moſt diſtant degree, affect Mr Downie; and, as I have ſhown that the evidence of Margaret Whitecroſs ought to be totally diſregarded, ſo there is nothing elſe remaining as to theſe pikes, but the *ſingle* teſtimony of Orrock the ſmith, who ſays he made *towards three dozen* of them *for Mr Watt*, and who, you will remark, having been thereby an accomplice in that buſineſs, is now a priſoner in the Caſtle of Edinburgh, and comes before you under the character of a *Socius Criminis*.

I have already ſtated to you, Gentlemen, the ſubſtance of what this Mr Orrock ſays, and you will judge, what degree of credit you can give to his evidence. The making of the arms at all, ſeems to have originated from himſelf, and from an idea, that other people, as well as the Goldſmiths-hall gentlemen, were entitled to have arms in caſe of an invaſion. He accordingly made one for himſelf; and the intercourſe afterwards about making more was entirely *between him and Mr Watt*. As to his afterwards bringing up two to

George Roſs's, and ſhowing them there one evening in a company where Mr Downie was preſent, you will remark, he does not ſay that he had been *deſired* to do ſo, nor that he had any ſort of orders for theſe pikes, either from the Committee of Union, or from the Sub-Committee of Ways and Means. Indeed, you have not the leaſt evidence, that either of thoſe Committees did ever authorize any ſuch thing, or know any thing about the making theſe weapons: and you have not only no evidence, but you have not even the ſhadow of reaſon to ſuppoſe, that Mr Downie ever heard of, or knew any thing about the pikes, till they were accidentally brought in the way I have mentioned, and ſhown to the Company in which he happened to be at Roſs's.

The circumſtance of ſome one in the company taking out a pencil, and ſketching a better form, might juſt as readily be from amuſement as from any thing elſe; and the deſiring Orrock to keep that ſketch in his view, might eaſily happen in the ſame way. It is certainly no material circumſtance againſt Downie, that he ſhould chance a little while after, to be in a paſſage in Roſs's houſe, when Watt repeated ſomething of the ſame kind to Orrock; and it is of great importance for you to remark, Gentlemen, that, excepting upon this ſingle occaſion at George Roſs's, there is not ſo much as a word in the evidence, either of Orrock, or of any other witneſs, which can tend to ſhew that Mr Downie gave any orders, had any concern, or knew any thing whatever regarding thoſe pikes. In ſhort, if you are to fix any guilt upon him as to this buſineſs, it muſt be founded on the *ſolitary teſtimony* of this Mr Orrock, ſwearing to caſual words paſſing at a tavern meeting, where Mr Downie happened to be preſent.

You will alſo have it in your view, Gentlemen, that the law does expreſsly require either *two lawful witneſſes* to each overt act, or one of them to one, and the other of them to another overt act *of the ſame Treaſon*. Now, even ſuppoſing, that this circumſtance as to the pikes, could be held an *overt act* of the Treaſon here charged, which I truſt I ſhall ſhow you it cannot be; and if you are ſatisfied alſo, that Or-

rock is the ſingle and only witneſs, whoſe teſtimony tends in the leaſt degree to affect Mr Downie, then I maintain, that this is *not ſuch evidence of an overt act*, as the law demands. He is but a *ſingle* witneſs, and I am ſure he cannot be held a lawful or unſuſpected witneſs, becauſe he is, by his own confeſſion, an accomplice, or *Socius Criminis*; and if the gentlemen on the other ſide ſhould tell me, that one witneſs is ſufficient to prove this overt act, becauſe there are other overt acts proved by other witneſſes, I give them this clear and ſatisfactory anſwer, that I flatly deny theſe other particulars to be in any degree ſuch, as can by law be held overt acts of the ſpecies of Treaſon which is here charged, of compaſſing or imagining the death of the King. I flatter myſelf that I have already ſatisfied you of this; and, if I have, then this as to the pikes, even ſuppoſing it an overt act, which I ſhall immediately ſhew you it was not, it reſts ſolely upon the evidence of Orrock, a ſingle witneſs, and one very far from being beyond ſuſpicion.

And here, Gentlemen, permit me to entreat, that you will calmly conſider this buſineſs as to the pikes, and not let your minds be impreſſed by their frightful appearance, nor be hurried away by ſuppoſition and conjecture. Take every circumſtance into your view, and then let me aſk, If you can really conceive, that, in making theſe pikes, there could be any ſerious object or purpoſe of overturning the Conſtitution? *Who* were to uſe them? Had the Committee of Union adopted them? By no means, For M'Ewan and Bonthorne not only ſay no ſuch thing, but they in direct terms tell you that they *never heard of arms*. Did either the Committee of Union, or the Sub-Committee, know of the making theſe pikes, or order them? No, they knew nothing of them.—You have not only no evidence of their knowing of them, but you have evidence *that they did not*.

If evidence had been brought before you Gentlemen, that theſe Committees had explicitly reſolved to levy war to overturn the Government, and, in purſuance of this, had ordered theſe Pikes or other arms to be prepared, there might then have been

at leaſt ſome better colour for the charge. But, Gentlemen, you have no ſuch proof before you; and, on the contrary, the very Members of theſe Committees who have been examined as witneſſes, do expreſsly ſwear, that they had no hoſtile intentions, and that they gave no orders for arms, nor knew of any being prepared; and if this *be the evidence*, Are *you* to give way to mere ſuppoſitions and conjectures? Are *you* at liberty, Gentlemen, to imagine and fancy plots and treaſons without proof, and to *preſume* theſe weapons intended for a wicked purpoſe, without ſo much as evidence that *any* ſuch wicked purpoſe was ever formed?

Conſider alſo, I pray you, *What* was the amount and number of the Pikes that were made? Towards *three dozen* were made by Orrock, and about *fourteen* by Brown. In ſhort, the number of the whole, did not exceed *fifty*; and Where was the fund to defray the expence of making more? *Watt* had not money to pay even the *fourteen* made by Brown; and as to the money belonging to the Committees, you have ſeen that it was not only trifling and ſcanty, but farther, that the Committees had no concern with theſe pikes, and never either ordered or knew any thing about them. It was Watt and Watt alone who ordered them; and it ſeems to have been, from beginning to end, one of his own wild incoherent abſurd chimeras, or, very likely, a treacherous and perfidious deſign, to forward his own avaricious views. Even if he could have got funds for making a greater number of theſe pikes, he neither had nor could have got *perſons* who would uſe them towards any hoſtile purpoſe; and to ſuppoſe, therefore, that theſe pikes could be prepared for the criminal and wicked purpoſe, of overturning the Conſtitution of Great Britain, is as ridiculous and extravagant, as to imagine, that his fooliſh and unmeaning plan of ſeizing the Caſtle was ever ſeriouſly entertained.

Having ſaid ſo much as to theſe pikes, there is another particular as to which you had a number of witneſſes examined, and which is the Advertiſement reſpecting the Fencibles. At the ſame time, I do not think it neceſſary for me to trouble

you, with saying much upon it. You will remark that there is no mention whatever of it in the Indictment; and yet, by the Statute of King William, it is in the most direct terms enacted, "That no evidence shall be admitted or given of "any overt act, *that is not expressly laid in the indictement* "against any person or persons whatever."

It is perfectly clear, therefore, that *this* cannot be admitted nor founded upon as an overt act, because it is not laid nor mentioned in the Indictment; and indeed, a moment's reflection must at once satisfy you, that even if it had been set forth in the indictment, the very circumstance itself could never come under the description of *an overt act of the Treason charged.* Indeed, I think it was most improperly introduced by the prosecutor, and it ought to meet with no regard or attention from you.

As to the paper itself, you heard it read, and it certainly was of an improper nature, and such as I cannot by any means seek to justify; but improper and even criminal as you may view it, you will consider, in the *first* place, how far it is brought home to the prisoner, and, in the *next* place, what offence it amounts to? You have no evidence, nor indeed has it been attempted to be proved, that Mr Downie was the author of it; and as to his having any concern in dispersing a few copies of it, I am sure that this, however improper, cannot with any reason be connected with a charge of compassing the death of the King. To seduce any of his Majesty's forces from their duty, is certainly criminal; but it cannot, in the eye of law or of common sense, be deemed High Treason. I am confident, Gentlemen, you will consider the matter in this light, and will throw this particular entirely out of your view.

I had almost forgot to take notice of the evidence of John Fairley, the Gentleman whom I had occasion to mention to you formerly, as the *Ambassador* sent through the country, by the Sub-Committee of Ways and Means; but I do not think it will be requisite for me to detain you with many observations upon what Mr Fairley says.

He in ſubſtance tells you, that he was going upon a viſit to his ſiſter, who was maid ſervant in a gentleman's family in Stirlingſhire; but, whether *that* was the real intention of his journey or not, is of no conſequence. He was employed, at the ſame time, to viſit the Friends of Reform in different places, in order to know what were their ſentiments; to enquire whether the cauſe was proſpering or decaying; to know who were attached to it; to learn what correſpondence might be kept up, and what money might be expected. Theſe were the *ſole objects* for which Mr Fairley was employed *by the Committee;* and from what you *a w* of this ſame Ambaſſador, I cannot doubt you will be ſatisfied, that if any thing really criminal had been in the view of the Committee, *he* was not the perſon, *whom* they would have choſen to entruſt with ſuch a negociation. Nay, even if the Committee had been ſo abſurd, I do not think the Friends of the People at a diſtance, would have been ſo wanting in common ſenſe and prudence, as to have committed themſelves *to him*, or to have entruſted him with any treaſonable ſecret.

But, while the inquiries I have mentioned, were all which *the Committee* had in view; yet it appears, from what Fairley ſays, that he received ſome other inſtructions *from Mr Watt*, and I beg you will attend to the manner in which theſe were given him. From the Committee he received no other inſtructions, but to make the inquiries I have already mentioned; and, indeed, the Committee had no other object in view. It was a perfectly fair object; for it had no other intent than carrying on the cauſe of Reform, in a legal and conſtitutional way; and Fairley was to get from Mr Downie thirty ſhillings of the money belonging to the Committee, in order to defray the expence of his journey. Thus far, the matter was the buſineſs of the Committee; but *Mr Watt* deſired Fairley, before he ſhould ſet out, to call at the ſhop of one Mr Campbell, where there would be lying for him *a parcel* which he was to carry along with him. Fairley accordingly called at Campbell's, and having got the parcel, ſet out on his journey.

I think Fairley said, that Watt desired him *not to open the parcel*, till he should come to Stirling, or some other place, and accordingly Fairley obeyed this. When, however, he did open the parcel, he found there *a paper of instructions written by Watt*, and which mentioned the foolish plan about seizing the castle, and other things of the like kind. This paper of instructions, however, had never been read to, nor seen by the Committee, but was entirely the operation of Mr Watt alone From what Fairley says, and from the evidence of Dr Forrest, you see how little encouragement any such wild plan met with from the Friends of Reform at Stirling; and, indeed, they seem to have been spoke of there only in the slightest manner; for Dr Forrest tells you, that Fairley expressly said, the purpose for which he had been sent by the Committee of Edinburgh, was in order to collect some money for Mrs Skirving, and other friends that were in distress.

From Stirling, Mr Fairley proceeded to Glasgow, Paisley, and other places, and then returned to Edinburgh. When he came to town, he went first to his father's house, and then went to the Committee, it happening to be a night on which he knew they usually met. When he went there, he found Watt, Downie, and M'Ewan. I do not recollect if he mentioned any body else; and you will particularly remark what then passed. Had the paper of instructions been given to him by the Committee, or by authority of the Committee, surely the first thing would have been for them *to enquire what he had done*; and he would have immediately pulled out the paper from his pocket, and have given a full account of the success of his negociation. In place of this, what happens? He tells them, that he found the Friends of Reform in general, hearty; and he mentions every thing he had met with respecting the objects which the Committee had in view; but, instead of producing the paper of instructions, which he had received from Mr Watt, he keeps it snug in his pocket, never brings it out, nor says a single word about it, during the whole evening. Nay, farther, he tells you, that

he *never* produced them to the committee, either then or afterwards, but, in a day or two after, *gave them to Mr Watt himſelf*.

Nothing ſurely can more clearly demonſtrate, that the Committee had no knowledge of, nor any concern with theſe ſecret inſtructions. They were purely and ſolely the operation of Mr Watt himſelf; and as they came from, ſo they were given back to him alone, without the Committee knowing any thing about the matter. In queſtioning the witneſs, indeed, a good deal of weight was attempted to be laid upon the circumſtance of this paper of inſtructions running in the name of the Committee, and alſo upon the money given to Fairley being out of the funds of the Committee; but I am confident you will at once ſee that there is nothing in all this.

Mr Watt would no doubt chooſe to make the paper run in that way; but *his* having choſen to do ſo, will never make that the paper of the Committee, unleſs there be clear evidence that they knew and approved of it. Now, there is not only no evidence of this, but there is moſt ſatisfying evidence of the contrary. And as to the money, it is perfectly clear, that although given by the Committee, yet it was only for the fair purpoſes which they had in view in ſending Fairley, and not for any ſecret and criminal purpoſes, ſuch as thoſe of Mr Watt. It was only *thirty ſhillings*, of which Fairley having expended but *fifteen*, he offered back the remainder; but the Committee allowed him to keep it for his trouble.

In ſhort, Gentlemen, is is evident, that there were two different purpoſes, or two ſeparate parts of Fairley's miſſion, and you ought carefully to diſtinguiſh between them. The one was a perfectly fair and a blameleſs purpoſe; and it was to inquire What were the ſentiments of the Friends of Reform, and to know What money might be obtained for carrying it on, in a legal and conſtitutional way? This was the ſole object of the Committee, and the only purpoſe they had in ſending Fairley. The other was a ſecret object *of Mr Watt's own*, kept totally concealed from the Committee, and for which, accordingly, they can be in no degree reſponſible. Mr Watt's

criminal and wicked deſigns may juſtly fix guilt upon himſelf, but can attach no guilt to any other perſon whoſe acceſſion to and approbation of it, is not fully and clearly proved. The trifling ſum given by the Committee to Fairley, is of itſelf a proof, that they could not have any thing criminal in view; and you will remark, Fairley expreſsly ſwears, that he never heard of the plan of ſeizing the Caſtle, &c. *from any body but Mr Watt.*

And now, Gentlemen, having offered you theſe obſervations upon the evidence, I will beg leave ſhortly to remind you of what I ſtated as to thoſe principles of Law, which apply to the preſent caſe, where the crime charged is that ſpecies of High Treaſon, *the compaſſing or imagining the death of the King.*

It has long been the boaſt and the glory of the Law of England, that of all ſpecies of guilt, *that of Treaſon* has been defined with the moſt ſcrupulous exactneſs. It was for this great purpoſe the Statute of Edward III. was paſſed; and as often as, in ſucceeding and arbitrary reigns, new Treaſons had been created, theſe were again, in better times, repealed, and the Law of Treaſon brought back to the ſtandard of that ever to be Revered Statute. It is the great bulwark of our liberty, and the mighty protection, under the ſhield of which, the ſubject is ſecured againſt the violence or injuſtice of State Proſecutions.

I ſtated to you, and I ſupported it by high and unqueſtionable authorities, that although a conſpiracy to levy war, has in ſome caſes been *by conſtruction* held to amount to the crime of compaſſing and imagining the death of the King, yet this has been admitted only in certain circumſtances, and a line of diſtinction has been taken, and the utmoſt anxiety ſhewn, to prevent the carrying Conſtructive Treaſon beyond due bounds. That diſtinction has been taken from *the object, or purpoſe* of the conſpiring to levy war. Where the purpoſe was ſuch as directly and neceſſarily to affect the life, and ſafety of the *perſon* of the King, it has been held to amount to a

compaſſing or imagining his death. Where, on the other hand, the purpoſe has been to obtain ſome reformation, without purſuing the due methods of the law, then the mere *purpoſing or deſigning*, to levy war, for that end, has not been held High Treaſon

This is the line of diſtinction, and theſe are the boundaries, which the wiſdom of the law has marked out To tranſgreſs theſe boundaries, and to overleap them, would be to confound the nature of crimes; and would be giving a fatal and irrecoverable blow to the ſecurity and liberty of the ſubject. In the progreſs of human events, New crimes may ſpring up, that may ſeem to merit a puniſhment greater than the Law has yet appointed; but it muſt ever be ſafer, to leave the remedying this to the deliberate wiſdom of the Legiſlature, than to reſort *to conſtructions and interpretations*, which, however virtuouſly intended at the time, muſt unavoidably open an inroad to arbitrary proceedings, and introduce that uncertainty and confuſion, which is itſelf the ſubverſion of all law.

This very evil, which would in the end prove the overthrow of all liberty, was anxiouſly guarded againſt by the Statute of King Edward, which has expreſsly ſaid, " And becauſe that " many other like caſes of Treaſon may happen in time to " come, which a man cannot think nor declare at this pre- " ſent time, it is accorded *that if any other caſe, ſuppoſed* " *Treaſon*, which is not above ſpecified, doth happen before " any Juſtices, *the Juſtices ſhall tarry without any going to* " *judgment of the Treaſon, till the cauſe be ſhown and declared* " *before the King and his Parliament, whether it ought to be* " *judged Treaſon or other felony.*"

With the law thus in your view, it is with You, Gentlemen, to conſider, Whether the facts proved in the preſent caſe, do amount to that ſpecies of Treaſon which is here charged? Suppoſing that a conſpiracy to levy war, or to raiſe a commotion, is here actually proved, What was the *object and purpoſe* of it? Was it a conſpiracy to levy ſuch a war, or ſuch a commotion as aimed directly, or neceſſarily, at the perſon of the

King? On the contrary, was it not clearly and evidently such a war, and such a commotion, as, at the utmost, could have for its aim nothing more than a reformation, without pursuing the due methods of law? Was there any view or purpose of dethroning or deposing, or endangering the life of Our Most Gracious Sovereign? No such thing ever was, nor could be dreamed of.

It is not enough to say, that the commotion, if once raised, might *possibly* have gone such a length, as *ultimately* to bring the personal safety of the King into danger. There is no purposed opposition nor resistance by force and violence to the execution of any part of the law, which may not, *by a strained construction and implication*, be connected with the safety of the King. But it is for this very reason, that the Law has wisely distinguished, between what may be intended against the *person* of the King, and what may be intended only against what has been termed *the Majesty*, or, in other words, the authority, or executive power of the Crown. The *former* has been held Treason, but the *latter* has not; and it is not for You, Gentlemen, to throw aside this distinction, or to confound offences which the Law has separated.

And, let me call to your remembrance another principle, that I took the liberty of explaining and enforcing; and which is, that the crime of Treason consists in the *wicked imagination of the heart*. The overt acts are only to be regarded, in so far as they are unequivocal indications of the guilt of the mind. It is the *guilty purpose* which constitutes the crime; and, unless you are satisfied that the prisoner at the bar, had, in his mind and heart, the wicked and atrocious design of compassing or imagining the death of the King, You cannot hold him guilty of the Treason charged in this indictment.

I flatter myself, that I have been successful in shewing you, that the prisoner had no real accession to the plan about seizing the Castle, nor to the preparing the pikes. Both these were the wild measures of Watt alone. The former was rejected

by the Committee, and by Mr Downie, and the latter never known to, nor countenanced by them. Any knowledge Mr Downie ſeems to have had of the pikes, was tranſient and accidental; and you muſt be ſatisfied, theſe pikes never could be meant for overturning the State, or endangering the ſafety of the King.

As to Mr Downie's having been a member of the Britiſh Convention, he neither has been, nor, for the reaſons I formerly mentioned, can he be criminated upon that account. And, as to his being a member of the Committee of Union, or of the Sub-Committee of Ways and Means, I cannot diſcover any evidence whatever, that theſe Committees had any criminal, and far leſs any Treaſonable deſigns. I requeſt you to diſtinguiſh, Gentlemen, between a zeal for the cauſe of Reform, and a wicked and criminal intention to ſubvert the Government. Becauſe the zeal of ſome men may be warm and intemperate, it would be unfair to preſume, that they would go the length of hoſtility to the Conſtitution. And becauſe, in Societies for Reform, there may be ſome who harbour in their minds treaſonable and deteſtable deſigns, you muſt not therefore conclude, that this pervades the minds of others; or, that becauſe a man is a Friend of Reform, or a Friend of the People, he is to be ſet down as guilty of the crime of High Treaſon.

In fairneſs and candour, let the line be drawn, and the juſt diſcrimination made. Confound not the innocent with the guilty. Confound not the leſs guilty with thoſe who are more ſo. If, from an intemperate impatience for Reform, ſome men ſhould tranſgreſs due bounds, and think of purſuing their object by other means than the methods of the law, let their temerity meet its due puniſhment; but let not haſty and precipitate reſentment, magnify into High Treaſon, an offence of a much leſs criminal complexion. Let us ever remember, that we are to look, if there is the wicked imagination of the heart; and, if we cannot diſcover *there* the malignant and attrocious deſign of compaſſing and imagining the death of the King, we cannot pronounce that it is the

crime of High Treaſon. Let cool judgment diſarm reſentment, and teach us, that the Preſervation of the Law, is of infinitely greater moment than the puniſhment of any individual.

But, Gentlemen, I muſt conclude, for I feel myſelf much exhauſted, and I am much afraid I have detained you too long. I know your attention and diſcernment will ſupply any defects of mine, and I truſt you will be ſatisfied that no crime has been proved, of ſo deep a dye as can entitle you to take away the life of this poor old man at your bar; and that you will therefore return a verdict, finding him Not Guilty of the crime charged.

MR ANSTRUTHER,

In Reply.

GENTLEMEN OF THE JURY,

I NOW riſe to perform a very unpleaſant taſk indeed—To call upon you for your verdict againſt one of your fellow ſubjects. I feel it my duty, and ſorry I am that it is my duty, to call upon you for that verdict becauſe I think that I have laid before you evidence, which, in point of fact, proves the offence ſtated in the indictment no leſs an offence than that of High Treaſon.

There was one obſervation made by Mr Cullen, in which I moſt heartily join with him, and wiſh you to attend to it as much as it was poſſible for him to do. He called upon you, Gentlemen, not to regard any thing that you might have read concerning thoſe tranſactions, but to confine your attention ſtrictly and ſolely to the evidence, laying out of your mind every impreſſion you might have received in other places; and laying out of your mind every thing, except the impreſſions which you have received from that which is ſtrict legal evidence given upon this trial this day. And moſt ſincerely do I join with Mr Cullen in recommending to you, and telling you, that you will not perform your duty to your country, and your duty to yourſelves, if you do not lay all extraneous matter from your minds, and confine yourſelves ſtrictly and ſolely to the evidence before you.

The attention you have beſtowed this day to that evidence, renders it unneceſſary for me to be extremely long in repeating it; and that attention ſatisfies me, that the caution Mr Cullen gave to you, and which I have now repeated, is at beſt an unneceſſary one. The obſervations which Mr Cullen has made upon the law, will make it neceſſary for me to ſay a few words to you upon that head; but you will not take the law from Mr Cullen, nor from me, although I ſhall endeavour to ſtate it with all the accurracy I am able; but you will take it from thoſe much more able to explain it, than either of us, whoſe duty it is to explain it, and whoſe obſervations it is your duty to attend to.

There was another obſervation of Mr Cullen's in which I perfectly concur; and that is, an utter abhorrence of every thing called Conſtructive Treaſon. Lord Hale's words, which he read to you, I wiſh may be impreſſed upon the mind of every public proſecutor as long as the world endures; but you will recollect that the words of Lord Hale are not applied to the ſtatute 25th Edward III. or to any of the ſpecies of Treaſon declared by that law. They are to be found in that part of his work where he makes the panegyric of the 25th Edward III. Thank God, that ſtatute aboliſhed in England a ſtring of Conſtructive Treaſons enough to make men ſhudder. To thoſe Treaſons Lord Hale's obſervations apply. But, Gentlemen, it is one of the Treaſons declared by the ſtatute of Edward the Third, and continued from that time down to the time I am now addreſſing you, which I charge upon Mr Downie; and, if I cannot make out that Mr Downie is guilty of a breach of his allegiance, by being guilty of compaſſing and imagining the death of the King, which is one ſpecies of Treaſon under the ſtatute of Edward III. I totally fail in my caſe; and I am ſure I have no wiſh, but the wiſh of juſtice. I ſhould be happy if the Judges found it conſiſtent with the law to tell you that there was no Treaſon laid in this indictment, or proved by the evidence, and that you find it conſiſtent with your oaths to acquit the priſoner at the bar. The

public proſecutor has done his duty in laying the caſe before you: he will be happy if it admits of a verdict of Not Guilty; but if you view the law and the evidence as I do, I am afraid it will be hardly poſſible that it ſhould be ſo.

Gentlemen, I have ſaid, that this indictment accuſes Mr Downie of being guilty of one of the ſpecies of Treaſon left by the ſtatute of Edward the Third—compaſſing and imagining the death of the King; and it is true, as Mr Cullen has ſtated, that, in the caſe of the King, the ſtatute of Treaſons hath with great propriety retained the rule *voluntas pro facto habetur*. In the compaſſing the King's death, the wicked imaginations of the heart have the ſame degree of guilt as if carried into execution from the moment meaſures have been taken for that purpoſe, whatever they may be.

The next thing for us to enquire, is what the ſtatute does not tell us, but which the law has left to the judges in each particular caſe to determine, namely, what acts are to be held as means taken for carrying ſuch compaſſing and imaginations into effect, and to be evidence of them, or what in other words, is an overt act of this ſpecies of Treaſon. If means have been taken to carry the deſign into execution, the party is guilty. What thoſe means are, may vary in every caſe; and, ſince the date of the ſtatute, various facts have been held to be overt acts of this ſpecies of Treaſon, and various principles have been eſtabliſhed with regard to what are or are not overt acts of compaſſing and imagining the death of the King. I will ſtate theſe ſhortly, in the words of ſome of the firſt lawyers and Judges of England, whoſe opinions have ſerved as a guide to ſucceeding Judges: and from them you will learn the principles which have guided Courts of Juſtice on determining what were overt acts of this ſpecies of Treaſon; and you will hear the caſes which have been determined, and which have been put as illuſtrations of theſe principles.

In the *firſt* place, I take it as too clear to be diſputed, that a perſon is guilty of compaſſing and imagining the death of the king, from the moment means are uſed to effect the purpoſe of the mind. It is alſo perfectly agreed upon all hands, that it is

not neceſſary to lay before the Jury, or ſtate in the indictment, a direct immediate attack on the perſon of his Majeſty. It has been held at all times not neceſſary to ſtate an attempt to poiſon, or to aſſaſſinate the King. Moſt unqueſtionably, if thoſe means were uſed, they would irreſiſtibly ſpeak the purpoſe of the mind; but means may be uſed to effect the purpoſe of compaſſing and imagining the death of the King, infinitely ſhort of ſuch attempts as thoſe. Mr Cullen agreed that a perſon going into a boat for the purpoſe of going to France with treaſonable papers in his poſſeſſion, was properly held as employing means to effectuate the intention of his mind, and an overt act of compaſſing the death of the King. Mr Juſtice Forſter, on whom Mr Cullen beſtowed a very deſerved panegyric, tells us—" The care the law hath taken for the perſonal ſafety of the King, is not confined to actions or attempts of the more flagitious kind, to aſſaſſination or poiſon, or other attempts directly and immediately aiming at his life; it is extended to every thing wilfully and deliberately done or attempted, whereby his life may be endangered." Therefore, Gentlemen, if I ſtate it in the indictment, and prove any act done deliberately, whereby the life of the King may be endangered, I have ſtated and proved that which is, in point of law, an overt act of compaſſing the King's death. The ſame author ſays, " the entering into meaſures for depoſing or impriſoning the King, or endeavouring to get the perſon of the King into the power of conſpirators, have been held overt acts of High Treaſon within this branch of the ſtatute." Why? Becauſe they are acts done, or attempted, not by which his life is to be immediately affected—not by which his life is to be taken away, but they are acts done and attempted, whereby his life may be in danger. The ſame author further ſays, " Offences which are not ſo perſonal as thoſe already mentioned, have been with great propriety brought within the ſame rule, as having a tendency, though not ſo immediate, to the ſame fatal end;" and, therefore, the entering into connections

for the purpoſe of bringing foreigners to invade the kingdom, has been held an overt act of High Treaſon—And why is it held to be an overt act of High Treaſon? Becauſe it may endanger the life of the King.

I could put a caſe, where it could hardly be within probability that an invaſion ſhould directly be aimed againſt the perſon of the King. I could put the caſe of the King being upon the Continent at the time that ſome perſons made a contract with a foreigner to bring 20,000 Ruſſians, or other foreigners, to make war in this country. This could not be High Treaſon under the clauſe of levying war, becauſe no war was levied. It would not be adhering to the King's enemies, becauſe the perſons ſuppoſed are not the King's enemies The King's perſon could not be in immediate danger, becauſe the caſe ſuppoſes him in his foreign dominions; but would it not be High Treaſon? Moſt certainly. It is the King's duty to repel ſuch invaſion; to place himſelf in a ſituation of danger; the meaſure directly points at diſturbing the peace of the country, which it is his duty to protect; at introducing hoſtilities, which the obligations of his ſituation call upon him to ſuppreſs; therefore the tendency of the attempt neceſſarily expoſes his perſon and life to peril; and it is to that natural and apparent tendency that we are to look. Foſter ſtates the principle diſtinctly, when mentioning the offence of inviting foreigners to invade the kingdom, to be High Treaſon. It is ſuch, ſays he, becauſe it hath a tendency to endanger the perſon of the King, and therefore it hath, in ſtrict conformity to the ſtatute, and to every principle of ſubſtantial and political juſtice, been brought within that ſpecies of Treaſon of compaſſing and imagining the King's death. You therefore ſee, that every thing which has a manifeſt tendency to endanger the perſon of the Prince, is an overt act of compaſſing his death. Whether the acts ſtated in this indictment and proved by the evidence, have that tendency or not, I ſhall conſider by and by. Theſe are not only the words of that great and illuſtrious perſon, and ſuch he certainly was; but

no Judge, who either preceded him, or who has followed him, no text writer of authority differs from him. Hawkins ſays, " The perſon of the King may be endangered, not only by ſuch overt acts as to take away his life, but ſuch deſign as cannot be executed without apparent peril thereof. Gentlemen, it will be for you, and my Lords, the Judges, to conſider, whether the deſign ſtated in this indictment could be executed without apparent peril and danger to the King." The ſame author, in another place ſays, " It hath been adjudged, that the levying war againſt the King's perſon, or the bare conſulting to levy ſuch war, or meeting together, and conſulting the means to deſtroy the King and his government; or aſſembling with others, and procuring them to attempt the King's death, by liſting men in order to depoſe the King, or printing Treaſonable poſitions, as that the King is accountable to the people, and that they ought to take the government into their own hands, is an overt act of High Treaſon.' — Why is it ſuch? Becauſe it is to excite the people to take the government into their own hands; and that cannot be done without endangering the perſon of his Majeſty. Gentlemen, you will judge under direction of the learned judge who preſides here. You will judge from what has been laid before you on this trial, Whether there was, or was not, amongſt theſe people, a deſign to take the government into their own hands? and whether it did not go further than printing that propoſition in a book, and publiſhing it to the world, which, in the opinion of the writer whom I have juſt cited, is High Treaſon. Have no means been taken, no ſteps purſued, far beyond the printing and publiſhing an opinion that the people ought to take the government into their own hands? Look at the inſtruments lying upon the table, and ſay whether the providing of theſe for the purpoſes proved, ſpeaks not the intention clearly, and whether they are not means more effectual for carrying that intention into execution than the publication of any book, however dangerous the propoſitions it contains.

Gentlemen, my friend Mr Cullen, moſt deſervedly beſtowed a panegyric upon Lord Hale, and from him read that quotation reſpecting conſtructive Treaſon, which I have mentioned. He told you, as he ſaid, from his authority, that a conſpiracy to levy war, is not Treaſon, unleſs it be where it is directly againſt the perſon of the King. Now I am perfectly ready to agree, and God forbid I ſhould not, that a conſpiracy to levy war, is not under all circumſtances, an overt act of High Treaſon. Mr Cullen ſtated fairly, there are two ſpecies of war in contemplation of the law; one that might be directly againſt the perſon of the King, and one that may not have the leaſt relation to the perſon of the King, but which may be called a war merely upon other men; and but, for the generality of the purpoſe, would be no more than a riot. If people aſſemble to pull down any houſe, it is a riot, and no more. If they aſſemble to pull down the houſes of all lawyers or judges, or all merchants or religious houſes, ſuch as all meeting houſes or all churches, or any thing that does not point to an individual, that is held to be a levying war; but a conſpiracy to do that act, is not an overt act of High Treaſon. And why? Becauſe, it is impoſſible to ſay, that men who do theſe things, have the ſmalleſt intention againſt the Prince; they neither do, nor intend to do, an act by which his perſon is in danger. It is war by conſtruction only; and, it cannot be allowed to make the act war by conſtruction; and then to argue, that, becauſe it is war, it is means uſed, which, in their natural and direct tendency, endanger the perſon of the King. The natural tendency of their acts, does not put the perſon of the Prince in peril. It is the generality of their purpoſe alone, which brings them within the ſtatute of Treaſon. It is in the remote conſequences, and in theſe alone, that danger may ariſe to the life of his Majeſty. But is that the caſe with regard to an attempt to overturn the Government, of which he is the head, and firſt executive Magiſtrate; or, with regard to an attempt to ſupercede the Legiſlature, of which he is an

integral part? Is it poſſible ſuch attem pts can be made, without directly endangering the perſon of the King?

Now, Gentlemen, that you may follow the rule of Lord Hale which I wiſh you to do, I will ſtate what he ſays upon this ſubject. Lord Hale, who is quoted to you as the enemy of all conſtructive Treaſons, Lord Hale ſays, "though a conſpiracy be not immediately, and directly, and expreſsly to effect the death of the King; but the conſpiracy is of ſomething that in all probability muſt induce it; and the overt act is ſuch a thing as muſt induce it; then is an overt act to prove the compaſſing of the King's death."—He then proceeds to a number of inſtances, and ſays, "an aſſembly to levy war againſt the King, either to depoſe, or reſtrain, or enforce him to do any act, or to come to his preſence, or to remove his counſellors or miniſters, or againſt the King's Lieutentant or military commiſſioned officers, is an overt act proving the compaſſing of the death of the King; for ſuch a war is directly againſt the very perſon of the King; and he that deſigns to fight againſt the King, cannot but know at leaſt it muſt put his life in hazard."

Tell me, Gentlemen, whether the facts charged in this indictment do not amount to a conſultation and conſpiracy to fight againſt the King's commiſſioned officers; and if they do, it muſt put the King's life in danger. Tell me, my Lords and Gentlemen of the Jury, whether the plan proved by the evidence, is not a plan to force the King to do ſomething againſt his will, to reſtrain him from doing that which as a branch of the Legiſlature he had a right to do, and to take the will of thoſe conſpirators inſtead of his own? One word more, Gentlemen: He farther ſays, "yet ſuch a conſpiracy or compaſſing to levy war againſt the King directly, or againſt his forces, a meeting and conſulting for the effect of it, whether the numbers be more or leſs, or diſguiſed under any other pretence whatſoever, as of reformation of abuſes, caſting down incloſures, particular or generally, and wreſtling, football playing, cock fighting, yet, if it can appear, that they conſulted or reſolved to raiſe a power immediately againſt the King, or

the liberty or ſafety of his perſon, this congregating of people for this intent, though no war be actually levied, is an overt act to maintain an indictment for compaſſing the King's death within the firſt clauſe of the ſtatute of Edward the III.; for it is a kind of natural or neceſſary conſequence, that he that attempts to ſubdue and conquer the King, cannot intend leſs than the taking away his life." Gentlemen, it will be for your determination this night, Whether there was not a conſpiracy entered into by the priſoner at the bar, and his adherents, to ſubdue and conquer the King?

I ſhall now, Gentlemen, ſtate a paſſage, of which Mr Cullen read apart to you. It is from a ſpeech of Lord Chief Juſtice Holt, whoſe authority is deſerving of your moſt ſerious attention, and when the whole paragraph is taken together, his opinion is ſtated in ſo maſterly a manner, and ſo clearly, that it is not neceſſary to ſay a word more than barely to ſtate it. It is in the trial of Sir John Friend for High Treaſon.

" He ſays, (ſpeaking of the defendant.) Here is no war levied, and a bare conſpiracy or deſign to levy war, does not come within this law againſt Treaſon. Upon this I muſt obſerve, that if there be only a conſpiracy to levy war, it is not Treaſon; but if the deſign or conſpiracy be to kill the King, or to depoſe him, or impriſon him, or put any force or reſtraint upon him; and the way and manner of effecting theſe is by levying a war, there the conſultation and conſpiracy to levy a war for that purpoſe is High Treaſon, though no war be levied; for ſuch conſultation and conſpiracy, is an overt act proving the compaſſing the death of the King, which is the firſt Treaſon mentioned in the ſtatute of the 25th of Edward the 3d; The words of that ſtatute are, that if any man ſhall compaſs or imagine the death of the King; now, becauſe a man deſigns the death, depoſition, or deſtruction of the King, and with that deſign agrees and conſults to levy war, that this ſhould not be High Treaſon, if a war be not actually levied, is a very ſtrange doctrine, and the contrary has always been held to be law." He goes on to ſay, " there may be a war levied without any deſign upon the King's perſon, or endan-

gering of it, which, if actually levied, is High Treaſon; but if a war be levied without endangering the King's perſon, ſuch would not be an overt act of High Treaſon. If perſons aſſemble themſelves, and act with force in oppoſition to ſome law, which they think inconvenient, and hope thereby to get it repealed, this is levying a war and Treaſon, though purpoſing and deſigning it is not ſo. When they endeavour in great numbers, with force to make ſome reformation of their own heads, without purſuing the methods of the law, that is levying of war and Treaſon." Then he goes on to ſay, "But if there be, as I told you before, a purpoſe and deſign to deſtroy the King; and to depoſe him from his throne, or to reſtrain him, or have any power over him, which is propoſed or deſigned to be effected by war, that is to be levied, ſuch a conſpiracy and conſultation to levy war, for the bringing this to paſs, is an overt act of High Treaſon. In the trial of Sir William Parkins, who was indicted for the ſame conſpiracy, another moſt eminent judge, Mr Juſtice Treby, ſays the ſame thing; his words are: "But I muſt tell you, that this Treaſon of compaſſing and imagining the King's death, may be made evident by other acts beſides that of aſſaſſination: To conſpire with a foreign prince to invade the realm; to provide arms to join with invaders, and to make an inſurrection againſt the King,—theſe are overt acts of imagining the King's death; for it cannot be ſuppoſed, but that he that would have ſtirred up an invaſion, and an inſurrection againſt the King's perſon, does intend the deſtruction of the King, which is an overt act of High Treaſon; and he that would take away all his defence, which he might have by the aſſiſtance of his ſubjects, and leave him expoſed to his mortal enemies, cannot but be preſumed to deſign the King's ruin and murder."

Now, Gentlemen, ſuch is the law and its diſtinctions upon this ſubject. If there be a deſign through the medium of war, to overturn the Government of the country, of which the King is a part; to ſuperſede the Legiſlature, of which he is an integral ranch, as well as firſt executive Magiſtrate; it is hard to ſay,

that ſuch a deſign, if carried into execution, would not endanger his life His duty to that Conſtitution, which has placed him in the ſituation of its firſt executive Magiſtrate, calls imperiouſly upon him to reſiſt, at all hazards, all ſuch attempts; their ſucceſs no King could ſurvive; and the very firſt ſtep taken either to enſure their ſucceſs, or to prevent their completion, places him in a ſituation of danger and peril, from which it would be ſtrange, indeed, if the law, which protects the meaneſt of his ſubjects, did not ſtrongly interpoſe for his defence.

Thus much with reſpect to the law: With regard to the facts given in evidence before you, feeling myſelf very much exhauſted, and apprehending you muſt be the ſame, from the length of time this trial has laſted, I ſhall ſtate them very ſhortly: and I am happy to ſay, that the very great attention you have beſtowed through the courſe of this long trial, renders it unneceſſary for me to be minute, and enables me to perform my duty, without conſuming much of your time.

The firſt evidence we brought before you, was for the purpoſe of proving a conſpiracy in general, to overturn the Conſtitution of the country; and how far Downie is affected by it, will be for you to determine. I think he is directly affected by it.

Firſt, we prove it, by the correſpondence of ſeditious ſocieties held in London, and in other places; their letters ſay they will have means, more effectual than the petitioning Parliament for a Reform. What means? I deſire you to take that letter of Skirving to Hardy, into your conſideration, and tell me whether it does not directly point out the plan for the deſtruction of the whole Government of this country, and placing one organized by Skirving and his aſſociates in its ſtead; Skirving ſays, we have already formed a plan for organization, that when the time comes, he and his friends may be ready to act, and may not be occupying themſelves with organization; Take that letter, and tell me whether it does not directly and pointedly go to the caſe of the diſſolution of the government of the nation, and Skirving and his organized body taking the place of the government of the coun-

try. What does the ſeditious ſociety in London do? Firſt, it propoſes to Skirving to adopt a method more effectual than petitioning. What is it Skirving propoſes to be more effectual than petitioning? A Convention. What is Skirving and the ſociety to go on with and endeavour to procure? A Convention. What is the Convention pointed out by Skirving in his letter to do?

Their determination is, that if the Legiſlature dares to do a particular act in the exerciſe of its legal functions, they will reſiſt that Legiſlature. What is this in plain Engliſh but a conſpiracy to over-awe the Legiſlature from doing its duty; if it does its duty, to reſiſt and rebel againſt it? When that Society, calling itſelf a Convention, met, how did it act? It formed itſelf upon the model of a Convention in another country, the effects of which, in that kingdom, I need not ſtate. It next aſſumes the name of a Britiſh Convention.—After that name is aſſumed, do you hear a word of petitioning Parliament? No. My learned friend read a paſſage from the minutes, in which it was propoſed by ſome members to petition Parliament; the idea is treated with contempt; and, after that, ſhall I be told it was a ſociety for the purpoſe of petitioning Parliament for a Reform? They tell me themſelves they did not intend to petition. But is that all? Do they ſtop there? They come to a reſolution, in which they expreſsly declare, that they will, in a variety of given caſes, reſiſt the authority of the Legiſlature; and if Parliament ſhall dare to paſs a particular law, they will dare to meet, in defiance of that law, till ſuperior force obliges them to deſiſt; force ſuperior to what? Gentlemen, can you read this reſolution otherwiſe, than as a reſolution to continue to act in diſobedience to the laws of the Legiſlature, to contemn its authority; to reſiſt the execution of its decrees, till a *force* ſuperior to their *force*, ſhould compel them to deſiſt. Gentlemen, what is this, but a conſpiracy againſt the Legiſlature of the country, and a reſolution to reſiſt it by force; and what ſort of a war would it have been, if the Legiſlature of this country

its King, Lords and Commons is to be reſiſted by force?—Would it, or would it not have been a war directly againſt the perſon of the King, and directly endangering his ſafety? What is to become of his Majeſty, ſitting in his Parliament, if another Parliament, ſitting in Edinburgh, or any where elſe, are to tell the Legiſlature how far they will obey or not. But this is not all. They provide for future Conventions, and form themſelves into a permanent body, to meet and to act as occaſion ſhall require; they reſolve, that each delegate, when he returns home, ſhall deſire his conſtituents to chuſe a freſh delegate to a freſh Convention, and providing a fund for defraying the expence of that delegate. It was aſked me, did I mean to criminate Mr Downie for what he did as a member of the Britiſh Convention. I ſay, Gentlemen, that I do not. But if, after Mr Downie was brought here as a witneſs on the trial of Mr Skirving, he chuſes to act upon the reſolution of that Aſſembly, to adopt its purpoſes, further its views, act upon its plans, and do that, which its laſt reſolution pointed out,—to endeavour to procure a delegate to be elected to another new Convention; and if he did collect money for that purpoſe—I do mean to connect Mr Downie with thoſe acts I have proved of his knowledge of the acts of the Britiſh Convention, now I come to that which directly criminates him. He knew the operations of that Convention. What did Downie do? He meant to call another Convention. He meant to provide for defraying the expence of delegates to another Convention. Mr Cullen aſked me if I meant to aſſert, that every man that is concerned in what is called the cauſe of Reform, is to be ſuppoſed going the whole criminal length of every other man engaged in the cauſe of Reform? I ſay, moſt certainly not. But if I prove that Downie acted upon the plans and views that the Britiſh Convention did, then, I criminate him. What was this Committee of Union? What was this Committee of Ways and Means? The Committee of Union, you have been told by M'Cubben Orrock, and Brown, one of its members, that the Committee of Union was for the electing a delegate to another

Convention, and providing money for the expence of the delegate. What is this leſs than acting upon the laſt vote of the Britiſh Convention, which brought about their diſperſal. What was that other Convention to be? The paper circulated about it calls it *another Britiſh Convention*. Then the next Convention, to which Mr Downie was to elect a deputy and pay his expences, was to be ſimilar to that I have mentioned. What was that Convention? It was of that criminal nature I have ſtated,—a conſpiracy to reſiſt the Legiſlature in the exerciſe of its functions, to ſupport itſelf by force, and not to deſiſt, till oppoſed by that which puts an end to all rebellion, SUPERIOR FORCE.

It might be ſaid, there was to be a Convention to meet in England; and, however illegal the Britiſh Convention's views and purpoſes might be, Mr Downie meant not the Britiſh Convention that was paſt, but the Convention which the Engliſh ſocieties meant to call in England. What was it they meant to call in England? A Convention ſimilar to the Britiſh Convention, ANOTHER BRITISH CONVENTION, the views, the objects, and acts of which theſe Engliſh ſocieties applauded, approved, and adopted; and, I may add, that the moſt violent of the acts of the Britiſh Convention were the natural and neceſſary reſult of the principles laid down by the London Correſponding Society for the direction of its delegates. If you read the minutes of the Globe Tavern Meeting,—if you read that paper publiſhed and circulated at Chalk Farm,—the whole of thoſe proceedings are founded upon the laſt vote of the Britiſh Convention. The diſperſion of that Convention is one of the grievances complained of, and it is the model upon which the new Convention is to be framed. It is to meet in the ſame events; to reſiſt the authority of the Legiſlature; to repel force by force; to prevent King, Lords, and Commons from paſſing certain laws, and reſiſting them if they do, in the ſame manner as the Britiſh Convention have reſolved to do.

Now, Mr Downie may take his choice. Did this Committee of Union meet for a purpoſe ſimilar to the Britiſh Con-

vention? If it did, it was for a buſineſs highly traiterous and riminal. Did it meet for the purpoſe of calling a Convention ſimilar to that propoſed at the Globe Tavern, at Chalk Farm, and by Hardy's circular letter? They are one and the ſame. There is no difference between that and the Britiſh Convention; the niceſt diſtinction cannot ſeparate them. The object of the Committee of Union, then, was to call a Convention, and employ delegates, which Convention was to reſiſt the proceedings of the Legiſlature, and to repel force by force. What? is a Convention to reſiſt the authority of the Legiſlature, to act by its own force? It is a ſuperceſſion, for the time, of the whole executive and whole legiſlative authority of the kingdom; and ſhall I be told, that a conſpiracy to call a Convention to reſiſt the whole Legiſlature of the country; I ſay, ſhall I be told, that calling ſuch Convention, is nothing more than Sedition; and if ſuch a thing is done, that it would not put the King's life in danger? It muſt put the King's life in danger, becauſe, from the hour that ſcheme took effect; from the firſt moment ſuch a Convention met to reſiſt the authority of the law, and determined to ſit till it was diſperſed by a ſuperior force, from that moment there is no legal authority in the country; King, Lords, and Commons, were depoſed and annihilated, if ſuch an aſſembly met for one day. That could only be ſeditious, ſays my friend; for if it had been more, why are not the members of thoſe Engliſh ſocieties held to be guilty of Treaſon. To this I ſhall only anſwer, that if the obſervation had been a little later in the month of September, there would have been no room for it.

Do you wiſh to know more diſtinctly the objects theſe men had in view by the future Convention, and the means taken to ſupport it when called?

Look at the acts of the Committee of Ways and Means, which met for the purpoſe of paying the debts of the paſt Convention, and for the purpoſe of electing and providing a fund for the payment of delegates to a future Convention, and keeping up the ſpirit of the Friends of the People. Obſerve, for one moment, what this Committee of Ways and Means, acting not as individuals, but acting for the purpoſes

which I have ſtated, and on behalf of the Friends of the People, conſidered to be its duty, and held to be its buſineſs. In the purſuit of thoſe objects, and the proſecution of that duty, the Committee acted by authority, and on behalf of the Friends of the People; and mark the words, Gentlemen, you recollect they came from one of the witneſſes. One part of the buſineſs of that Committee, the object of which was to elect and pay the expences of a delegate to a new Convention; one was to debauch the ſoldiery of this country; another part of its buſineſs was to ſend Fairley round the country, upon the important embaſſy which has been detailed to you by the witneſſes; another part of its buſineſs was to provide for the grand plan; another, and not a trivial part of it, was to procure inſtruments, ſuch as you now ſee upon your table; and ſhall I now be told all this was innocent, and that the Convention, intended to be called and ſupported by ſuch means, had nothing more than a legal reform in view? I dare ſay thouſands of theſe deluded men, who paſſed under the name of Friends of the People had no ſuch objects in view, as I have been ſtating to you. Many deluded and many miſled people were among them; but was the Committee of Ways and Means deluded? Was it deluſion that led them to ſend Fairley round the country for the purpoſes for which he went? Was it deluſion that made them deſire Orrock to provide pikes? Was it deluſion that induced them to pay Brown for the pikes he had made? Was it deluſion that made them conſult and conſider of the extraordinary plan which you have heard ſo much of? Mr Cullen deſired you to conſider, whether it was poſſible that theſe low men, aſſembled in ſmall numbers, meant all theſe great purpoſes which I have ſtated them to have meant; and ſtated the wildneſs and extravagance of the plan, as rendering it impoſſible for you to give credit to its exiſtence. Whether the ſcheme was wild and extravagant, or not, I will not take upon me to ſay: The wildneſs and extravagance of the ſcheme does not prove the ſcheme did not exiſt; and men are not to eſcape puniſhment, becauſe, thank God, the ſpirit of the coun-

try is ſuch, that any ſuch plan, although ſupported by numbers much greater than theirs, and men more powerful than they, would be wild and extravagant: But why are ſuch ſchemes wild and extravagant? It is, becauſe the ſpirit of the country is awake; and becauſe ſo many of the inhabitants of theſe kingdoms have been called forth by the alarm, and have ſtood forward in a way which does them honour, and, I truſt, bids defiance to the deſigns of malevolent and wicked men; whether few or numerous; whether at home or abroad: But, that there was ſuch a plan is not leſs true, becauſe national loyalty and ſpirit, a love for the King, and veneration for the Conſtitution, have rendered it wild and extravagant.

Gentlemen, you might have thought, perhaps, in former parts of your life, that a ſcheme by low men, in low occupations in life, and ſmall means in point of money, to overſet and overturn the government of a country, was a thing ſo extravagant, that its extravagance was evidence of its non-exiſtence: But can you think ſo, at this day? Have you not ſeen a mighty monarchy crumbled to pieces? Have you not ſeen a great King led to the ſcaffold? Have you not ſeen all that was great, was learned, was reſpectable or ſacred, in one of the mightieſt monarchies in Europe, ſcattered like chaff before the wind, by inſtruments whom, but a few years ago, you ſhould have thought vile and contemptible? To uſe the phraſe which I borrow from my learned friend near me, becauſe I never can do better than when I borrow from him—Such ſchemes are the Treaſon of the day; the growth of this particular period; the Treaſon of the hour in which we now live. Melancholy experience aſſures us of their exiſtence; and even their extravagance itſelf may in ſome degree furniſh the means, and facilitate their execution.

I muſt next call your attention for a very few moments to this Committee. Firſt, it is to pay the debts of the paſt Convention; then to provide for the expences of delegates to a new Convention; then it becomes a Committee of Union, too large to act, too great in its numbers; then a ſmaller Committee is formed; a permanent Committee; a ſecret Com-

mittee, conſiſting of 7 members, choſen from the Committee of Union. What are the powers entruſted to that Committee? Unlimited powers over the Society at large, as far as delegation can go. One of the witneſſes had great difficulty in ſaying it was a ſecret Committee, and did not know what Committee it was; at laſt he ſays, it was juſt ſuch a Committee as men would have who wiſhed to keep their buſineſs ſecret and private; that is, a Committee of Secrecy. Now, what are the acts of this Committee? Its firſt act is to eſtabliſh a ſet of collectors, who were to collect *ſenſe and money*; who were to know what number of patriots could be depended upon; what exertions could be made in the great cauſe.—Read the circular letter, and then tell me what were the views of the Committee. "We would wiſh to be informed what number of friends you have, whoſe patriotiſm you can rely upon, with the moſt implicit confidence, and whom you know will ſpare no exertion whatever in promoting the great cauſe we have in hand;" patriotiſm is not ſufficient: greater exertions are neceſſary. What were theſe? Read Fairley's paper with the blanks, as he has filled them up; what is wanted at Stirling? Courage. What, was courage wanting for a petition to Parliament? was courage wanting to procure a Reform by legal and peaceable means? No: courage was wanted for the hand to guide thoſe pikes; courage was wanted for the collectors who were to conduct the diviſions; courage was wanted to ſeize the Caſtle of Edinburgh, and overcome them whoſe duty it was to defend it; to ſeize the Judges, and other Magiſtrates of the country; and to ſeize upon the Banks, and deluge this country with blood, from one end to the other.

Gentlemen, one of the firſt things done after appointing theſe collectors, is a meeting for the purpoſe of anſwering Mr Hardy's circular letter, reſpecting another Britiſh Convention, about which I have ſaid enough. Watt, the leading member of the Committee; Downie, the treaſurer, the general treaſurer of the Friends of the People, were both preſent at that

meeting. Mr Watt produces a plan which he reads to the Committe. Mr Cullen reads a quotation to you, to prove, that if a perſon was once preſent at a conſultation for treaſonable purpoſes, without knowing what the purpoſes of the meeting were, he could not be guilty of treaſon; moſt unqueſtionably not;—nor would I call upon you to ſay Mr Downie was guilty of treaſon, if he had never done more than being preſent at this meeting; and if nothing more paſſed than paſſed the firſt evening the plan was read: if Mr Downie had known nothing of the nature and objects of the Committee; if he had done nothing before or ſince, to prove his knowledge of, and acceſſion to the whole; the barely being preſent at a meeting for treaſonable purpoſes, without a knowledge of theſe purpoſes before hand, is not of itſelf an overt act of High Treaſon. But what was his conduct when the plan was produced? two perſons, (one of whom, if he was engaged in ſchemes at any time hoſtile to the Conſtitution of his country, has moſt unqueſtionably made that Conſtitution all the amends in his power, by the candid manner he gave his teſtimony;) I mean M'Ewan, when that plan was mentioned, exclaimed againſt it; and would not agree to any thing that was to occaſion bloodſhed in the country; Mr Bonthorne ſaid, No, no; and ſeemed to be in great fright,—Bonthorne immediately determined to leave the ſociety, and to get rid of it for ever, and free himſelf from every dangerous conſequence, which might attend his having been preſent at ſuch a meeting, by ſtating to the world, that he had withdrawn from theſe connections. This conduct of Bonthorne's ſtrongly corroborates the evidence of what the plan really was; it proves, that it was a plan of very great danger, and very great alarm; the plan proved is preciſely conſiſtent with the effect the reading of it produced on them; it was to ſeize the Caſtle of Edinburgh, raiſe a fire at the Exciſe office, and when the ſoldiers came out to extinguiſh it, the Friends of the People, ſtationed for the purpoſe, were to attack them. All theſe things were to be done, not by the aſſiſtance of indifferent men, who might be picked up by Watt and Downie;

but by thoſe who meant to elect delegates, and pay their expences to a future Convention, by the conſtituents of the Committee of Ways and Means: one party was to meet at the Luckenbooths, another at the Bow, others were to be ſtationed to ſeize the Judges and Magiſtrates of the City, and the Banks; and then couriers were to be ſent into the country, putting the farmers in a ſtate of requiſition, and the gentry in a ſtate of confinement, under the penalty of death for their diſobedience; and, laſt of all, his Majeſty himſelf was to be made to ſubmit to the will of theſe conſpirators. When this plan is read, what ſays Downie of it? Is he alarmed at it? Is there any evidence of his fright upon the occaſion? or, is there any thing of his drawn up to ſatisfy the world, he had abandoned all theſe Committees? But I am ready to take it, that at that meeting he neither aſſented or diſſented. It cannot be denied the evidence goes this length at leaſt: But did Downie do no more? Mr Downie met Mr Orrock at that Committee of Ways and Means; and Mr Downie at that Committee of Ways and Means, with Mr Watt, gave orders for the inſtruments that were to accompliſh this plan, and which now lie upon your table. Does a man, when he has diſſented from a plan, join with another in ordering the inſtruments to accompliſh it, and carry it into execution? Orrock tells you, Downie was preſent when he had the firſt converſation with Watt, when he ſaid he would make a pike: What did Orrock do when he made it? He brought it back: To what place? to George Roſs's, where the Committee of Ways and Means met. Did he deliver it to Watt alone, by calling him out from the meeting, or deliver it to him publickly in the Committee of Union; no, he called out Mr Watt and Mr Downie; the Sub-Committee met in the ſame houſe with the Committee of Union; Watt and Downie were members of both Committees; and they were called out by Orrock as Sub-Committee men, acting together, to talk about theſe pikes. Did Downie ſay to him, you have been talking of a plan that is to deſtroy the Government of this country? You have been talking

of a plan, that may deluge the ſtreets of Edinburgh with blood; and now you are providing inſtruments and weapons for the purpoſe of carrying it into execution, I will have no more connection with you: Theſe are not the purpoſes for which we have aſſociated; theſe are not the objects of our Committees? No. He joins with Watt in telling Orrock to make a number of pikes, and then bring them back. To whom was Orrock to bring them? To the Committee of Ways and Means, conſiſting of Mr Downie, and Mr Stoke, and I believe at that time, if I recollect, M'Ewan. When Mr Downie heard Mr Watt was apprehended; when he heard that M'Ewan had been examined, he goes to Mr M'Ewan, and aſks him what queſtions had been put to him, and tells him—Mr M'Ewan, if you are examined again, and you are aſked whether you know me? ſay no: and if I am aſked, whether I know you? I will ſay no. Mr M'Ewan, much to his honour, refuſed to have any thing to do with ſuch a ſcheme. But, is Downie's the conduct of an innocent man? No. It is the conduct of a man who had aſſented to the plan from the beginning. And here I muſt remark, that it was from this converſation that M'Ewan for the firſt time learned that Downie had paid money to Martin Todd and Brown for pikes. Who is Brown? He is concerned in the ſame buſineſs, in which Downie and Watt employed Orrock. Brown is employed to make pikes—Who pays Brown? Downie. Out of what fund? Out of the fund of the Committee of Ways and Means. Who ordered the pikes from Orrock? The Committee of Ways and Means. Now, I am told, I have not proved that Downie knew that this money was paid for pikes. I leave you to judge of that. Orrock was employed to make pikes by order of the Committee of Ways and Means. Brown was employed by Watt for the ſame purpoſe; he pays him by an order upon Downie, the Treaſurer of the Committee, the general Treaſurer of the Friends of the People. Downie pays him out of theſe funds—Is it credible that he did not know the purpoſe for which the money was paid? Did he, who employed Orrock, not know the

occupation of Brown? But if this be not ſufficient evidence of the compleat aſſent of Downie, attend to the evidence given by Fairley. Who was Fairley employed by? Originally by Mr Watt? No. By the Committee of Ways and Means? Whoſe meſſage was he to carry? A meſſage from the Committee of Ways and Means. Whoſe inſtructions had he to carry? The inſtructions of the Committee of Ways and Means. Who did he give back the inſtructions to? He was to give them back to a clerk of the Committee of Ways and Means. Still I am told, that Mr Downie knew nothing of the miſſion of Fairley. It is ſaid, he might mean only to ſend thoſe letters and papers, and might not mean any thing about the plan. It was the inſtructions alone, which told Fairley where he was to go, and where he was to deliver thoſe letters. He was to deliver the letters at Falkirk, Stirling, Borrowſtounneſs, St Ninians, Kilſyth, Kirkintulloch, Campſie, Glaſgow, and Paiſley. You will determine if theſe inſtructions did not come from the Committee of Ways and Means; for it is admitted Downie knew of the diſtribution of the papers, and knew where they were to be conveyed; and did he then not know of the inſtructions by which Fairley was told the rout he was to take? Read the circular letter, and ſay whether there is not a pretty cloſe connexion between that letter, and the plan and projects already mentioned? Where did Fairley go, when he came back? To the Committee of Ways and Means. Who paid the expences of his journey? Downie. From whom did he get the money to enable him to go? From Downie. Now, if Mr Downie knew nothing of thoſe inſtructions, did it never occur to him to aſk, why did you go to Glaſgow, or to this or that place? Was Downie ſurprized at the circuit he had made, or did he enquire for what purpoſe, or with what view it was undertaken. No, on the contrary, he readily paid him for his trouble in undertaking the journey, and ſeemed ſatisfied in the manner in which it was performed, You will judge from that, whether Mr Downie knew of the other tranſactions of the Committee of Ways and Means. Gen-

tlemen, you recollect, too, that when Watt and Downie gave inſtructions to Orrock to make the pikes, Watt and Downie deſired him to keep in his eye the drawing they made; and when he brought the pike he had made, he was ſent out of the room while Watt and Downie had a conſultation together. After that conſultation, he was called from the Committee of Union, into which he was going, and received from them two jointly, the order for the pikes, which he executed, and which now lie before you.

There is another circumſtance, a ſtrong circumſtance it is too: A pike has been ſeen in the houſe of Mr Downie: When it was ſeen, it was endeavoured to be concealed; it was called by Mr and Mrs Downie a dividing-knife. Whether the inſtrument that it is now produced be like a dividing-knife or not, you will judge. That converſation between Mr and Mrs Downie, affects Downie with a knowledge of theſe pikes being in the houſe. The circumſtance of its being called a dividing-knife, and concealing both its being there, and what it really was, is one to which you will no doubt give its due weight. Certain it is, that it was not found in his houſe when ſearch was made ſeveral days after the apprehenſion of Watt. You recollect the pike was ſeen in his houſe prior to the apprehenſion of Watt, and, poſterior to the apprehenſion of Watt, was not found there; and it was after that apprehenſion, too, that he went and had that converſation with M'Ewan, which I have mentioned: You will judge whether, from all theſe circumſtances, there is not compleat evidence of Downie being a *particeps criminis*; of his having aſſented to that plan of Treaſon, in all its circumſtances; the converſation with M'Ewan; the finding the pike in the houſe; converſing with Brown; ſending Fairley, and paying him after he came back from his journey; the pikes being actually made by Orrock, as ordered by him; and his not diſſenting from the plan when read, and his full knowledge of all the views, plans, and objects, both of this Convention and the preceding Convention, with all thoſe circumſtances in your minds, tell me whether the reſult is not compleat conviction?

Now I come to the Fencible paper. Upon that I ſhall make no comment. I deſire you to read it, and, after you have read it, judge whether it does not inſinuate to the ſoldiers, that their wives will be raviſhed; their children and fathers butchered by troops of foreign mercenaries. Gentlemen, does the paper mean that theſe horrible deeds were to be perpetrated by foreign invaders? They were to be perpetrated by thoſe who come to be received here in kindneſs and hoſpitality. Who are theſe that are to be received with kindneſs and hoſpitality? That paper ſays, theſe outrages were to be the return for kindneſs and hoſpitality. To whom was kindneſs to be ſhewn? To the troops brought here by his Majeſty to defend the country, and not to thoſe that come to invade it. The alluſion to the maſſacre of Glencoe, while it brings melancholy and diſgraceful ſcenes to our remembrance clearly points out what the troops are, which the paper inſinuates were to be brought here to do thoſe deeds of horror. What is the fair conſtruction of this paper, but an endeavour to inſinuate to the ſoldiers of this country, that if they were to defend another part of this nation from an invaſion, the very government they went to defend, would ravage their country, deſtroy their families, and maſſacre every perſon they held dear. A doubt has been ſuggeſted, whether the diſperſion and publication of the paper can be evidence under this indictment? I take it there is no room for ſuch doubt.

Gentlemen, we have charged the priſoner with a conſpiracy to reſiſt the government of the kingdom. We have charged him with a conſpiracy to compel the King to yield to certain demands. I am entitled to give every act of his in evidence, which will prove that conſpiracy, or that can explain the objects he had in view. Above all, I am entitled to give in evidence the means he uſed to make that conſpiracy effectual, and the mode he took to compel the King to yield to his demands. The engines he employed to ſupport his Convention, and render vain all reſiſtance to its decrees. One of theſe means were, thoſe inſtruments lying upon the

table; another was, inciting the ſoldiers to mutiny and rebellion, and depriving the crown of thoſe legal means of reſiſtance, with which the Conſtitution has moſt wiſely entruſted it. I am not obliged to lay all the evidence as overt acts; out of kindneſs to the priſoner, and in order that he might have as full a knowledge as poſſible of the caſe we meant to make againſt him; as this mode of trial is ſomewhat new in this country, we have been unneceſſarily minute and particular in our indictment. Many, very many of what we have laid as diſtinct overt acts, might have been given in evidence under a more general charge. It cannot be doubted that the plan for ſecuring the Caſtle, and every thing relative to the ordering or preparing of pikes, might have been given in evidence under a charge of a conſpiracy to levy war, or to depoſe the King; and of that conſpiracy there would have been evidence; they may alſo be ſtated as overt acts in themſelves; becauſe they are means uſed to effectuate the purpoſe of the mind, and that a purpoſe which cannot be carried into execution, without endangering the life of his Majeſty, and bringing his perſon into danger and peril; a more direct evidence of a conſpiracy to levy war againſt the King cannot be, than the circumſtance of debauching the army, and endeavouring to arm the ſubjects againſt the ſovereign. It is to deprive the King of the aſſiſtance of his ſubjects, and, in the words of Mr Juſtice Treby, which I have already read to you, he that intends to deprive the King of the aſſiſtance of his ſubjects, cannot intend leſs than his ruin and deſtruction.

Now, take all theſe facts together. Take the intentions they had in view; the means they took to carry their intention into execution: take the plan of calling a Convention; take the plan of ſeizing the Caſtle; conſider what were to be the nature and power of that Convention when called; the means uſed to debauch the army; the actual facts of making and providing arms; and then judge, Gentlemen, Whether, if this ſcheme had been carried into execution, his Majeſty's

life would not have been in danger? Had this ſcheme been carried into execution, there would have been no government in this country. The King, Lords, and Commons were ſuperſeded in their authority; force was to take place of law, and the will of the multitude to ſtand in lieu of the Conſtitution. It is with great ſatisfaction I ſay, that all thoſe deſigns have proved abortive. I know that there is a ſpirit of loyalty in theſe ſoldiers who have been attempted to be debauched, as well as in almoſt all the inhabitants of this country, which I truſt will long render all ſuch attempts abortive, by whoever they may be made, or by whomſoever they may be conducted. But, let it not be ſaid, that becauſe ſuch ſcheme may be abortive, if attempted to be carried into execution, that thoſe concerned are not to be puniſhed for the crimes. It is no light thing, Gentlemen, to attempt to ſet aſide the government of the country. The ſlighteſt evils which can ariſe, and the leaſt dangerous conſequences that muſt enſue from attempts to ſuperſede the Laws and Conſtitution of the country, and to render every thing ſubſervient to the will of the multitude, is the letting looſe the turbulent paſſions of mankind, and the removing for a time the wholeſome reſtraints of law and order; and it is no light thing to remove the reſtraints of law from the multitude. The reſtraints of law are as much a part of your liberties, as any other part of the Conſtitution. It is the reſtraint of law that confines the unruly; it is the reſtraint of law that controuls the violent; it is the reſtraint of law that prevents the turbulent paſſions of mankind from overwhelming this country and every other country in blood. Remove the reſtraints of law, and no one can tell the miſchief he introduces. Its effect upon the multitude, which, in all ages, and in all countries, is nearly the ſame, is well deſcribed by the elegant Roman hiſtorian Livy, who, in narrating ſome of the ſudden revolutions which took place in ſome of the ſtates of Sicily, in which the minds of the lower orders of men were much agitated, philoſophically and elegantly remarks. *Hæc natura multitudinis eſt: aut ſervit humiliter, aut ſuperbe dominatur: Libertatem quæ*

media eſt, nec ſpernere modice; nec habere ſciunt; en non ferme deſunt irarum indulgentes miniſtri, qui avidos atque intemperantes plebeiorum animos ad ſanguinem at cædes irritent: Sicut tum extemplo prætores rogationem promulgarent, acceptaque pene priusquam promulgata eſt, vt omnis regia ſtirps interficeretur. May God, in his good Providence, avert ſuch evils from this happy land! But let us not be inattentive to the page of hiſtory, or to the experience of the preſent hour, and leave unpuniſhed theſe dangerous attempts, becauſe the ſpirit of the nation may ultimately render them abortive. Such an attempt, deliberately reſolved upon, and, as we imagine, clearly proved, we have laid before you. It is your duty, calmly to weigh the whole of the evidence, coolly to conſider the matter, and lay your hands to your hearts, and ſay, whether this priſoner be guilty or not, of the Treaſon laid to his charge, as the crime is great, and the conſequences of the attempt dreadful. You are anxiouſly to guard againſt every impreſſion which horror for the crime, or dread of its conſequences, may have upon your minds. If the crime is great, the puniſhment is alſo the greateſt the law knows, or which a ſubject of this country can ſuffer; and ſatisfactory ought to be the evidence which calls upon you to pronounce a verdict of Guilty. Such we think we have laid before you; but if you can acquit him upon the evidence, I ſhall rejoice. I have done my duty, and my learned friends their duty, in laying the caſe before you. It is your buſineſs to judge of it, and judge of it I am ſure you will, in a manner, that, whether you acquit or condemn the priſoner, from the character you bear in the world, and from your conduct and attention this day, your deciſion will reflect honour on yourſelves, and credit on your country.

THE LORD PRESIDENT's

SUMMING UP AND CHARGE TO THE JURY,

ON THE

TRIAL OF DAVID DOWNIE,

On Friday and Saturday, September 5th and 6th 1794.

GENTLEMEN,

The circumſtances which have been exhibited to view upon the preſent occaſion, are ſome of them of a nature ſo extraordinary, that I believe, at any after time, the exiſtence of them will not eaſily be credited.

There have been periods in the hiſtory of this country, (I mean Scotland,) when the lower claſſes of people had reaſon to complain of their condition; when ignorance, idleneſs, and ſuperſtition reigned, and poverty was the conſequence; when the power of the nobles, and chiefs of clans, was too great for the King and the body of the people. In thoſe times, commerce and manufactures were unknown amongſt us, and agriculture was nearly in the ſame ſtate; the chief employment of all ranks of men in the country, being civil war, family feuds, riot, and depredation. But how widely different has the ſtate of this country been for a conſiderable time back? And, particularly, what is it at the preſent moment? I will venture to ſay, there is no country exiſting, which is at preſent more flouriſhing; no people whoſe general condition is better, or whoſe rights and liberties are more firmly ſecured.

Gentlemen, the evil does not lie there, but in a different

quarter altogether. am afraid it is too well known. It lies in the inſidious attempts of deſigning and deſperate men, to bring this country into the miſerable ſituation of France. It is not a ſtruggle for liberty, in a proper ſenſe. It is not a ſtruggle for happineſs. It is not a ſtruggle even for *Reform*, though that word has been much uſed. Reform is no doubt the pretence; but it is too obvious that the real object is *power*. It is to throw the power of the State into the hands of popular leaders, who themſelves would be led, as they are in another country, by the multitude.

Gentlemen, it is needleſs to enlarge upon this topic. I will only beg leave to read a paſſage which ſtruck me a good deal in an admirable ſpeech lately delivered in the Parliament of Ireland, where this matter is put in a clear point of view. "The raſh career, and fatal conſequences of a reformin g ſpirit, have lately been brought before our view by facts ſo ſtriking and impreſſive, that what was formerly conjecture, is now conviction; and if we will not follow the example of others, we may poſſibly add to future misfortunes, the aggravation of ſelf reproach. The progreſs is natural, and is applicable as a warning to every country in Europe; for there is ſo much uniformity in the nature and proceedings of man, that in their combinations, almoſt always ſimilar cauſes produce ſimilar effects, ſimilar conditions, ſimilar conſequences, and therefore I do not heſitate to ſay, with every degree of reſpect and affection for the people acting within their proper ſphere, with every degree of conviction, that their happineſs is the chief end and object of every good government. I do not heſitate to ſay, that there never has been an inſtance, in any age, or country, in which political power has been aſſumed by the lower orders of the people, by thoſe whoſe education is ignorance, whoſe condition is uncertainty, whoſe patrimony is hope, and whoſe empire muſt be commotion,—which has not proved ſubverſive of liberty, deſtructive of the general happineſs, and particularly unfortunate to thoſe who are the authors of it."

Were any further illuſtration neceſſary, I would take the

liberty of referring to another paſſage, which I recollect to have read in a very ancient book upon Republics. The author of that book, among other things, compares a ſtate to a ſhip, and tells a ſtory, or perhaps a fable, (but it is no matter which) of the crew of a ſhip having taken it in their heads to ſay, what right has ſuch a man to be a maſter? What right has ſuch another to ſit at the helm and be pilot? Have we not all as much ſkill, and are we not all equal by nature? Upon this they immediately proceeded to dreſs themſelves in the officers cloaths; to get drunk with their liquors; and having taken the command of the ſhip, the conſequence was, they ſteered her upon rocks and ſhoals, and the whole crew, officers and men, periſhed in one indiſcriminate wreck.

Gentlemen, Before you proceed to conſider the proof, it is neceſſary that you ſhould underſtand with accuracy what the law of Treaſon is upon which you are to judge, I mean that branch of it which is connected with the preſent buſineſs.

N. B. Here his Lordſhip gave the ſame preciſe ſtate of the law of Treaſon that he had done in the caſe of Watt, to which, therefore, it will be ſufficient to refer. He then proceeded as follows:

Gentlemen, it does not ſeem neceſſary to trouble you further upon the argument in law, which appears to me to be ſufficiently clear, and the ſame is the opinion of my brother judges. I ſhall only put this further caſe to you by way of illuſtration. Let me ſuppoſe that the rebellion in 1745 had not gone the length of an actual riſing in arms, and taking the field; that it had been ſtopt and prevented in the very outſet; but that nevertheleſs the perſons concerned had ſettled their plans of operation; that arms had been commiſſioned from France, ſome actually provided, and other ſuch preliminary meaſures taken. In ſuch circumſtances, it could not have been ſaid that there was any *actual levying of war*, and, therefore, a charge of High Treaſon againſt any of the parties concerned, could not have been laid upon that branch of the ſtatute; but can there be any doubt that it would have been a good charge upon the other branch, the circumſtances

aforeſaid being alledged as overt acts of compaſſing the King's death?

Gentlemen, ſubmitting theſe obſervations to you in point of law, I ſhall endeavour to be ſhort in ſtating what I have to ſay upon the evidence, which ought, in a great meaſure, to be left to your own conſideration, as you are to be the judges of it, and not the Court.

The indictment is branched out into a variety of articles, but they reſolve ſubſtantially into a very few.

1*ſt*, That the priſoner, along with others, conſulted and conſpired to procure a meeting to be held under the name of a Convention, for the purpoſe of uſurping the powers of government and Legiſlation, redreſſing alledged grievances, and bringing about certain changes.

2*dly*, That they did actually meet, conſult, and agree, about compelling the King by force of arms to alter the meaſures of Government, to introduce new laws, and to comply with certain demands.

3*dly*, That they conſulted and conſpired about ſeizing the Caſtle of Edinburgh, attacking and ſurpriſing the King's forces, and taking poſſeſſion of certain public offices, and certain perſons in authority.

4*thly*, That they inſtigated and excited a number of perſons to aſſiſt in their meaſures, employing one Fairly to go about as an emiſſary to divers parts of the country, to collect money and opinions; and that, in proſecution of the ſame meaſures, they cauſed pikes, ſpears, and other warlike inſtruments, to be provided, to enable them forcibly to reſiſt the King and his Government.

With regard to the 1*ſt*, viz. the project of a Convention, I am unwilling to go back to the proceedings of the Convention, actually held in Edinburgh, called the Britiſh Convention, which was diſperſed in December 1793; becauſe it ſeems to have been the underſtanding of his Majeſty's advocate, when the priſoner was adduced as a witneſs in ſome of the trials for Sedition, which enſued upon that occaſion, that he himſelf ſhould not be tried for any thing then done. But, it

is by no means foreign to the purpoſe, that the nature of theſe proceedings ſhould be underſtood, in order, that it may appear, whether the priſoner, notwithſtanding his being releaſed from all accuſation, as to what was done in that Convention, did immediately *afterwards* proceed in adopting ſimilar meaſures, and, in conjunction with others, his aſſociates, forming the plan of a *new general Convention* for the like purpoſes, although they acquieſced in the legality of what the Sheriff and the Magiſtrates of Edinburgh had done, in diſperſing the former, as they took no ſtep to counteract it by application to a Court of law. Inſtead of openly complaining of the intruſion of thoſe Magiſtrates, which they certainly might have done, had their own proceedings been legal, we find them meeting again in a clandeſtine manner, and inſtituting ſecret Committees of *Union*, and of *Ways and Means*, in the view of ſending delegates to a new intended Convention to be held in ſome place, not even ſpoke out by themſelves. It appears, that they appointed Fairley as an emiſſary, for the purpoſe of collecting money to be lodged in the hands of this priſoner, who was their treaſurer, and a zealous member of both the Committees already mentioned; and one great purpoſe of theſe contributions, was, to defray the expence of ſending delegates to the propoſed new Convention. This has been expreſsly ſwore to, both by M'Cubbin and Bonthorne.

As to the *ſecond*, and other heads under which I have taken the liberty of claſſing the overt acts, charged againſt this priſoner; it is proved by the minutes, and other written evidence, which were read at the bar, that having already preſented a petition to Parliament without ſucceſs, it was by no means the intention of theſe ſocieties to proceed any longer in that way; but it was their determined plan, by means of a General Convention, and by other violent methods, to carry their meaſures into execution; and you will conſider, whether there are not ſufficient circumſtances to ſhew, that the priſoner, as an active member, and treaſurer of the Secret Committees at Edinburgh, was a principal party to all thoſe

wicked deſigns, by which the King's Goverment was to be overturned. One material circumſtance is, the plan or project which is ſaid to have been formed by Watt, and communicated by him to this priſoner, and other members of the Committee of Ways and Means, of ſeizing upon the Caſtle of Edinburgh, and the Judges, &c. With regard to this, it appears, upon the evidence of no leſs than three different witneſſes, that a paper, containing ſuch a plan, was read at a meeting of that Committee, where the priſoner was preſent; It was read by Watt, and diſſented to by two of thoſe preſent, M'Ewan and Bonthorne, but not by the priſoner You are to conſider what weight is to be laid upon the circumſtances of the priſoner's ſilence, and neither approving of the meaſure propoſed, nor diſapproving of it, by words or ſigns of any kind. You will no doubt alſo keep in view, that there is no direct evidence of his having had any previous knowledge of this paper; and M'Ewan ſays, "He does not know that the ſubject of this paper was either ſpoke of again at that meeting, or at any ſubſequent meeting; that the plan ſeemed to be entirely Watt's, who altered ſomething in it." Bonthorne alſo ſays, he did not conſider the propoſal as made to the Committee, but entirely as a *phrenzy* of Watt's. At the ſame time, it is proved, that the priſoner did not ſignify either ſurprize or diſſent, though M'Ewan and Bonthorne did ſo, and afterwards abſented themſelves, as they told you, from thoſe meetings;—the priſoner did not act in that matter, but continued an active member of the Committees, along with Watt.

Gentlemen, there is another circumſtance which connects, in ſome degree, with that which has been juſt ſpoken to, and has a very ſtrong and ſtriking appearance. The purpoſe of ſeizing upon the Caſtle of Edinburgh, ſurrounding the ſoldiers, and taking priſoners the different perſons in high public characters in this City; and ſeizing the public Bank, and Exciſe Office, could not poſſibly be carried into execution, without putting arms into the hands of thoſe who were to be employed; ſo that arms were neceſſary to be provided; and

it is clearly proved, that the priſoner was equally concerned with Watt, in applying to Orrock the ſmith, and others, and giving directions about making the weapons now lying on the table Orrock's evidence was very ſtrong upon this head, and one of the inſtruments was actually found in his poſſeſſion, by Margaret Whitecroſs, the ſervant maid. How it came into his hands, does not appear Of this, you muſt form your own conjectures. He had been late out the night preceding, and it was found early the next morning by the maid-ſervant in his dining-room; and almoſt immediately after, it was taken away and kept out of view. Something was afterwards ſaid by Mrs Downie, in the preſence of the ſervant-maid, about finding this inſtrument in the dining-room. She ſaid to the priſoner, what have you done with the large dividing-knife or carving-knife, which Charles found in the dining-room? or ſomething to that purpoſe; upon which the priſoner ſaid he had locked it up. This circumſtance appears unfavourable to the priſoner; although it is a poſſible caſe, that the inſtrument may have been left in the room, not by the priſoner, but without his knowledge by his ſon, who appears, from the ſervant-maid's evidence, to have riſen out of his bed at an early hour in the morning, and taken it away, when he heard her in the room.

Another circumſtance, which ſeems pretty clearly brought home to this priſoner, is his acceſſion to the inflammatory addreſs intended for the Fencible ſoldiers, and to the uſe made of it at Dalkeith, as ſworn to by ſeveral witneſſes. The effect of this I ſubmit entirely to yourſelves, being doubtful whether any weight ought to be given to it, as not being ſpecifically ſtated in the indictment; though there are *general words* in ſome of the articles, under which the counſel for his Majeſty endeavoured to ſhow, that any attempt to excite Rebellion or Inſurrection in the country might be introduced.

With theſe obſervations, I ſhall leave the caſe in your hands. If, upon due conſideration of the whole, you ſhall be of opinion, that the priſoner, and thoſe with whom he aſſociated, had no bad deſign againſt the King or government

of this country; that they are unjuſtly accuſed of ſomething they had no idea of themſelves; in ſhort, that the priſoner is an innocent man; or, if you think it a doubtful caſe, your leaning ought to be for innocence. But if, on the other hand, from all the circumſtances that have been brought in evidence before you, (which I have ſtated as well as I could do at this late hour,) you are ſatisfied that there is ſufficient evidence to bring home to the priſoner any of the overt acts which are neceſſary in point of law to conſtitute the crime of High Treaſon; I need ſcarcely obſerve to Gentlemen of your ſituation and character, that you are bound, by the ſolemn oath that you have taken, and by the duty which you owe to yourſelves and the country, to pronounce a verdict againſt the priſoner, whatever the conſequence may be. It is not your province to ſhew compaſſion or mercy. If any ſuch idea can ariſe at all, it muſt come from a different quarter. It is your duty to find the truth, and nothing but the truth, and this I have no doubt will be underſtood by you.

The Jury retired for about half an hour; when they returned, they were called over by the Clerk of Arraigns, and each anſwered to his name.

Clerk of Arraigns.—Gentlemen of the Jury are you agreed in your verdict.

Q. Who ſhall ſay for you?

Jury. Our foreman.

Clerk of Arraigns to the priſoner at the bar, David Downie, Hold up your hand, (which he did,)—Gentlemen of the Jury, look upon the priſoner. How ſay ye? Is the priſoner guilty of this High Treaſon, whereof he ſtands indicted; guilty or not guilty.

Foreman of the Jury.—David Downie is GUILTY.

Clerk of Arraigns.—Gentlemen, what goods or chattels, lands or tenements, had he at the time the High Treaſon was committed, or at any time ſince to your knowledge?

Jury.—None to our knowledge,

Clerk of Arraigns.—Then hearken to your verdict, as the Court hath recorded it. You ſay, that David Downie is guilty of High Treaſon, whereof he ſtands indicted; but that he had no goods or chattels, lands nor tenements, at the time of the High Treaſon committed, or at any time ſince to your knowledge.

Jury,—Upon account of certain circumſtances, we deſire to recommend the priſoner to mercy.

It being paſt four o'clock in the morning, on Saturday September the 6th, the Court adjourned to twelve o'clock on the ſame day.

Saturday, September 6th.

The Court met this day at twelve o'clock, agreeable to adjournment. The following Judges were preſent:

Lord President,

Lord Chief Baron,	Baron Norton,
Lord Eſkgrove,	Lord Dunſinnan.

The priſoners being brought to the bar,

Mr *Robert Hamilton*, Counſel for Robert Watt, ſtated in arreſt of judgment, 1ſt, A nullity, which he alledged exiſted in the Commiſſion itſelf, under which the Court acted. By the act of parliament, 7 *Anne*, cap 21. "for improving the Union of the two kingdoms," it is enacted, "That her Majeſty may iſſue out *Commiſſions of Oyer and Terminer* in Scotland, to ſuch perſons as her Majeſty, her heirs and ſucceſſors ſhall think fit; and that *three of the Lords of Juſticiary* be in the ſaid Commiſſion of *Oyer and Terminer*, whereof *one to be of the Quorum.*" And it is alſo provided, "That where any

Commiſſion of Oyer and Terminer ſhall iſſue purſuant to this act, and is to be executed within any diſtrict where there is a *Juſtice General*, or perſon having right of Juſticiary, who had juriſdiction in caſes of High Treaſon at the time of making this act, from, and after the time that ſuch right be made appear before the Lords of Seſſion, and by them certified to the Lord Chancellor of Great Britain, ſuch *Juſtice General*, or ſuch perſon having right of juſticiary, *or their reſpective deputy*, ſhall be in the ſaid commiſſion, and *one of the quorum*."

The meaning of being one of the quorum, he contended, was the ſame as a *ſine qua non*; which reſtriction was applicable only to the Lords of Juſticiary, three of whom ſhould at all times, according to the ſtatute, be conſtituent members of the Court. But the commiſſion, according to the preſent inſtance, did not conform to, but, on the contrary, went beyond the authority and ſanction of the ſtatute, under which alone it could legally be granted. For, beſides three Lords of Juſticiary, viz. the Lord Juſtice-Clerk, Lord Henderland and Lord Eſkgrove, who, or any of them, are declared and required to be neceſſarily of the quorum, the Lord Preſident of the Court of Seſſion is alſo, by the commiſſion, declared to be one of the quorum. Had the three judges of the Juſticiary only been declared to be of the quorum, the commiſſion was in every reſpect authorized by the ſtatute of Queen Anne; but the inſertion of the Lord Preſident as one of of them, was a deviation; for thereby a Court of Oyer and Terminer might be formed, in which there was not one of the Lords of Juſticiary, in direct contradiction to the ſtatute.—This alſo, in three different poſitions, viz. the Lord Preſident the Lord Chief Baron, and Mr Baron Norton, might conſtitute a Court; ſo might the Lord Preſident, with Lord Chief Baron, and Lord Alva; as alſo, with Lord Alva, and Mr Baron Norton; yet not one of theſe Judges were Lords of Juſticiary. Hence he contended, that the commiſſion was not authorized by the ſtatute; and it would be no anſwer, that no ſuch Courts as that ſuppoſed, had in fact been formed, as the objection was not *facti* but *juris*; not to what had,

actually taken place, but to what might have taken place, according to the terms of the commiſſion; which, as it evidently overleapt the enactment of Queen Anne, by force of which alone it could exiſt at all, was, on that account, unauthorized and illegal. That the ſtricteſt interpretation was always duly given to ſtatutes which contained any enactments relative to criminal juſtice. This, *in favorem vitæ*, and upon the ſame principles, the ſame ſtrictneſs of interpretation ſhould be given to the ſtatute of Queen Anne, which introduced and eſtabliſhed the Court before whom an offence of this high criminal nature could be brought to trial. That this ſtatute ſhould not, in the ſmalleſt particular, have been departed from; and as the preſent commiſſion evidently went beyond the rule therein preſcribed, it had no juſt authority; ſo that no judgment in the preſent inſtance, could be pronounced.

In the 2*d* place, Mr Hamilton contended, that judgment ſhould be arreſted, on account of informality, or rather defective ſtyle, in the indictment itſelf. Certain technical words and phraſes were required in all indictments; and, according to the law of England, peculiar nicety was obſerved. He had looked into the law books and precedents, and he found that, in every indictment for felony, whether for larceny or murder, though the preciſe day was ſtated upon which the malicious or evil deſign was conceived, with the aggravations, yet it was farther neceſſary to connect the completion of the crime by the fact which indicated and was proof of the intention both as to time and place, with ſuch preconceived intention; that being the eſſence, and the fact the proof of the crime. He inſtanced the caſe of an indictment for murder; when, notwithſtanding that a preciſe day was affixed to the conceived malice, an indictment would be defective, unleſs the time of giving the ſtroke was connected with the time of forming the deſign to kill. The words of ſtile, adapted to make out ſuch connection, were *at tunc et ibidem*, or *then and there*. But, upon looking into the preſent indictment, he found that theſe words were entirely omitted, which in his opinion, rendered it defective. The rule of ſtile in an indict-

ment for murder was equally applicable to a caſe of Treaſon; the compaſſing and imagining the death of the King, and the traiterous deſign to do ſo, was the crime charged; and in order to make the indictment complete, the overt act ſpecified ſhould have been connected by a *then and there*, with the period at which the evil imagination, manifeſted by ſuch acts, was conceived. He quoted Hale's pleas of the Crown, and Hawkins, and referred to a precedent of an indictment in Foſter's reports, upon the trials in 1746, which was the rule upon which all the indictments in theſe caſes at that period were framed, and in all of thoſe, the words *then and there* were cautiouſly inſerted, and carefully repeated.

Mr John Clerk, counſel for Mr Downie, roſe and ſtated, that though, in point of law, the objections ſtated by Mr Hamilton, would, if ſuſtained, be equally available to his client; yet he did not mean to inſiſt upon them. He had been recommended to mercy, by a moſt reſpectable jury of his countrymen, and humbly threw himſelf upon his Majeſty's clemency.

Mr Anſtruther, in anſwer to the 2d of Mr Hamilton's objections, ſtated, that it was undoubtedly neceſſary, when the time and place was ſpecially condeſcended upon only in the firſt count of the indictment, to repeat the words then and there at the other counts; but that, in this caſe, the time and place were eſpecially condeſcended upon at every ſeparate count in the indictment.

In anſwer to the other point argued by Mr Hamilton, Mr Anſtruther ſtated, that the meaning of the Legiſlature, in declaring, that three of the Lords of Juſticiary ſhould be in the Commiſſion, and *one* of the quorum, was, that the common people of this country might not think that they were to be tried entirely by ſtrangers, but that ſome perſons acquainted with the laws of their own country ſhould be among their judges. He contended the act of Parliament had been completely complied with in the preſent caſe. The Lord Juſtice General, and Lord Juſtice Clerk, together with the whole Judges of Juſticiary were in the commiſſion; and the Lord

Juſtice General, Lord Juſtice Clerk, and *two* of the Commiſſioners of Juſticiary, were declared, along with the Lord Preſident of the Court of Seſſion, to be of the quorum. Mr Anſtruther contended, that it was not the meaning of the ſtatute that *none* but the Lord Juſtice General, Lord Juſtice-Clerk, and Lords Commiſſioners of Juſticiary, ſhould be a quorum, but that *one* of them ſhonld be of the quorum, along with ſuch other perſons as his Majeſty ſhould appoint. He alſo ſtated, that *one*, at leaſt, of the Judges of Juſticiary, who were of the quorum, had been preſent at all the diets of Court; ſo that nothing, in point of fact, had occurred, which would authorize any objection upon the ſtatute.

The Court unanimouſly repelled both objections.

After ſome ſteps of form, proclamation was then made by the cryer, and ſilence being ordered, Mr Knapp deſired Robert Watt to hold up his hand; upon which he read to him ſhortly the accuſation for which he was tried, and ſaid—"To theſe charges you pled not guilty, and caſt yourſelf upon God and your country; that country has found you guilty. Have you any reaſon to aſſign why the ſentence of the law, which is death, ſhould not paſs againſt you?"

The ſame he recited to David Downie. Both priſoners remained ſilent.

THE LORD PRESIDENT,

Then addreſſed the priſoners, as follows:

ROBERT WATT, DAVID DOWNIE,

That part of the duty, which remains to be performed by this Court, is a moſt diſtreſſing one, but not the leſs neceſſary. You had the misfortune to be brought to that bar, under the heavy charge of High Treaſon; and after the fulleſt inquiry, and moſt fair and impartial trial, you have each of you been convicted, by the unanimous voice of moſt reſpectable juries of your country, as guilty of that atrocious crime.

The evidence on which the verdicts proceeded, was ſuch as left no room for doubt or heſitation; and the public muſt be compleatly ſatisfied, that the conſequence was unavoidable.

Had your deſigns been carried into execution, by an actual inſurrection of thoſe deluded men, whoſe leaders you appear in a great meaſure to have been, although in the end you muſt have failed, yet, in the mean time, ſuch a ſcene of unutterable diſtreſs, confuſion, and bloodſhed muſt have enſued, that the very idea of it is horrible.

Reſiſtance to an eſtabliſhed Government can only be juſtified by the plea of abſolute and indiſpenſible neceſſity. And this can never exiſt without the moſt unequivocal proofs of it; and the moſt general concurrence in thoſe meaſures which become neceſſary for obtaining relief.

Such was the ſituation of this country at the period of the Revolution in 1688; but no one can, with the ſmalleſt degree of truth or candour, ſtate, that ſuch neceſſity occurs at preſent, or in truth that there has been leſs ground of complaint, at any period ſince this country had an exiſtence. No material circumſtance has happened in the preſent reign, which ſhould have given occaſion for any degree of diſcontent; it is to be imputed alone to the wicked deſigns of bad and deſperate men in this country, that ſuch daring attempts have lately been made here, and in other parts of the Britiſh dominions, to deſtroy the tranquillity and happineſs of the country; but it is to be hoped, that the vigilance of the executive Government, and the ſtrong arm of the law, will be ſufficient for our protection; and I alſo hope and truſt, what has now befallen you, will be ſuch an admonition to others, that there will be little danger of ſuch execrable plans being again thought of, for a long period to come.

You have yet a little time to reflect ſeriouſly upon your paſt conduct, and to prepare for that awful change which is ſoon to follow. Let me exhort you to make the beſt uſe of your time, and to apply for aſſiſtance to thoſe who can aſſiſt you in ſuch important meditations.

It only remains to pronounce the ſentence of the Law, which is in theſe words:—

THE SENTENCE.

The Court doth adjudge, that you, and each of you, be drawn upon a hurdle to the place of execution; that you be there hanged by the neck, but not until you are dead; and that being alive, you, and each of you, be cut down, and your bowels taken out, and burnt before your face. That each of your heads be ſevered from your bodies; and your bodies divided into four parts; and that your heads and quarters be diſpoſed of as the King ſhall think fit: And ſo the Lord have mercy upon your ſouls!

This is the ſentence of the Law; and I give further notice to you, and to each of you, that this ſentence will be carried into execution, upon Wedneſday the 15th of October next, between the hours of Twelve at noon, and Four in the afternoon, in terms of a precept to that effect, which will be delivered to the Sheriff; this notice I give you by order of the Court.

FINIS.